S. HRG. 99-890

EMPLOYMENT OPPORTUNITIES FOR DISABLED AMERICANS ACT

HEARING

BEFORE THE

SUBCOMMITTEE ON SOCIAL SECURITY AND INCOME MAINTENANCE PROGRAMS

OF THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

NINETY-NINTH CONGRESS

SECOND SESSION

JULY 30, 1986

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EMPLOYMENT OPPORTUNITIES FOR DISABLED AMERICANS ACT

WEDNESDAY, JULY 30, 1986

U.S. SENATE,
SUBCOMMITTEE ON SOCIAL SECURITY
AND INCOME MAINTENANCE PROGRAMS,
COMMITTEE ON FINANCE,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:05 p.m. in room SD-215, Dirksen Senate Office Building, Hon. William L. Armstrong (chairman) presiding.

Present: Senators Armstrong, Durenberger, and Moynihan.

[The press release announcing the hearing, and the prepared written statements of Senators Dole, Durenberger, and Mitchell and a background paper by CRS follow:]

[Press Release No. 86-059, July 3, 1986]

SENATE FINANCE COMMITTEE SETS SUBCOMMITTEE HEARING ON S. 2209, "THE EMPLOYMENT OPPORTUNITIES FOR DISABLED AMERICANS ACT"

Senator Bob Packwood (R-Oregon), Chairman of the Senate Committee on Finance, announced today that the Subcommittee on Social Security and Income Maintenance Programs will hold a hearing on S. 2209, "The Employment Opportunities for Disabled Americans Act." This bill, introduced by Senator Bob Dole, would make permanent provisions of the Social Security Act which allow disabled recipients of benefits under the Supplemental Security Income (SSI) program to receive benefits while working. The hearing will take place on Wednesday, July 30, 1986, beginning at 2:00 p.m. in Room SD-215. Senator William Armstrong (R.-Colorado), Chairman of the Subcommittee, will preside.

Section 1619 of the Social Security Act authorizes the continued payment of SSI benefits to individuals who work despite severe medical impairment. This section also permits continued coverage under the Medicaid program. Included in the Social Security Disability amendments of 1980, Section 1619 was designed as a three-tier demonstration project. The Social Security Administration will soon issue a report on the projects. This report will be discussed during the hearing.

Senator Packwood noted that, "there is a growing recognition that the 1619 program could save money by encouraging persons to work who would otherwise remain on the SSI program throughout their lives. Making the provisions permanent would, according to preliminary estimates by the Congressional Budget Office, have little if any, budget impact."

STATEMENT OF
SENATOR BOB DOLE
BEFORE THE
SENATE FINANCE COMMITTEE

JULY 30, 1986

MR CHAIRMAN, I APPRECIATE THE OPPORTUNITY TO TESTIFY ON BEHALF OF S. 2209, "THE EMPLOYMENT OPPORTUNITIES FOR DISABLED AMERICANS ACT". THIS LEGISLATION, WHICH HAS BEEN COSPONSORED BY THIRTY-THREE OF MY COLLEAGUES, REMOVES DISINCENTIVES IN THE SUPPLEMENTAL SECURITY INCOME (SSI) PROGRAM FOR RECIPIENTS WHO WORK DESPITE THEIR DISABILITY.

ON JUNE 9, 1980, THE SOCIAL SECURITY DISABILITY AMENDMENTS OF 1980 WERE SIGNED INTO LAW. AMONG THE PROVISIONS WITHIN THESE AMENDMENTS WERE THE 1619 PROGRAM: SPECIAL SSI BENEFITS AND A CONTINUATION OF MEDICAID FOR THE WORKING DISABLED. THIS THREE YEAR DEMONSTRATION WAS SCHEDULED TO CEASE AT THE END OF 1983. IN 1984, BECAUSE CONGRESSIONAL ACTION HAD NOT BEEN FINALIZED, THE SOCIAL SECURITY ADMINISTRATION CONTINUED THE SECTION 1619 PROGRAM ADMINISTRATIVELY UNDER ITS DEMONSTRATION PROJECT AUTHORITY. P.L. 98-460, "THE SOCIAL SECURITY DISABILITY REFORM AMENDMENTS OF 1984", EXTENDED THE AUTHORITY OF SECTION 1619 THROUGH JUNE 30, 1987, ONCE AGAIN ON A TEMPORARY BASIS.

SECTION 1619(A) ALLOWS SSI RECIPIENTS TO CONTINUE TO RECEIVE SSI CASH PAYMENTS AFTER THEY BEGIN ENGAGING IN

SUBSTANTIAL GAINFUL ACTIVITY (SGA) UP TO THE INCOME DISREGARD "BREAKEVEN POINT", CURRENTLY $757 PER MONTH PLUS THE STATE SUPPLEMENTARY PAYMENT IN THOSE STATES WHERE SUCH PAYMENT IS PROVIDED. SECTION 1619(B) EXTENDS MEDICAID COVERAGE TO INDIVIDUALS WHOSE CASH BENEFITS HAVE STOPPED IF THEIR CONTINUATION IS NEEDED IN ORDER TO ASSURE THAT THE INDIVIDUAL CAN CONTINUE TO WORK.

IN 1979, WHEN I INTRODUCED S. 591 ALONG WITH A NUMBER OF MY DISTINGUISHED COLLEAGUES INCLUDING SENATORS MOYNIHAN, BENTSEN, AND CRANSTON, WE WERE RESPONDING TO THE DESIRE OF PERSONS WITH DISABILITIES TO OBTAIN BOTH A MEASURE OF ECONOMIC INDEPENDENCE AND DIGNITY. WE KNEW THEN, AS WE KNOW NOW, THAT EMPLOYMENT IS THE KEY FACTOR IN THE SUCCESSFUL INTEGRATION OF DISABLED ADULTS IN COMMUNITY LIFE.

A REPORT BASED ON THE RECENT LOU HARRIS SURVEY OF ONE THOUSAND DISABLED AMERICANS REVEALS SOME SIGNIFICANT, BUT SHOCKING, DATA:

- TWO-THIRDS OF ALL DISABLED AMERICANS, BETWEEN AGE 16 AND 64, ARE NOT WORKING
- ONLY ONE IN FOUR DISABLED ADULTS WORK FULL-TIME
- WORKING DISABLED PERSONS ARE MORE SATISFIED WITH LIFE, AND HAVE BETTER SELF-PERCEPTIONS, THAN THOSE WHO ARE NON-WORKING

THERE ARE, OF COURSE, MANY REASONS WHY PERSONS WITH DISABILITIES FACE DIFFICULTY IN ENTERING AND SUCCEEDING IN

THE COMPETITIVE WORK FORCE. LEGISLATION ALONE WILL NOT PROVIDE THE OUTLINE FOR THE LONG-TERM ECONOMIC SURVIVAL AND HAPPINESS OF HANDICAPPED PERSONS THROUGHOUT THIS COUNTRY. DISABLED PERSONS ARE SIMILARLY DISENFRANCHISED DUE TO: LACK OF APPROPRIATE TRAINING, INADEQUACIES OF OUR PUBLIC TRANSPORATATION SYSTEM, AND THE FEARS AND ATTITUDES OF EMPLOYERS WHO FAIL TO RECOGNIZE THE PRODUCTIVE POTENTIAL OF HANDICAPPED APPLICANTS.

IN 1980 WE TOOK A MAJOR STEP IN ADDRESSING THE IMPORTANT ISSUE OF THE DISINCENTIVE FACTOR CONNECTED WITH THE SUPPLEMENTAL SECURITY INCOME PROGRAM. BUT DISABLED PERSONS, THEIR PARENTS, AND THEIR GUARDIANS HAVE OFTEN BEEN RELUCTANT TO CONSIDER WORK UNDER THE SECTION 1619 PROGRAM BECAUSE THEY KNOW THAT IT IS TEMPORARY. RECENT SOCIAL SECURITY DATA INDICATES THAT THERE ARE CURRENTLY 816 PERSONS PARTICIPATING IN 1619(A) AND 7,954 IN 1619(B). THERE ARE, HOWEVER, OVER 2.6 MILLION DISABLED RECIPIENTS.

CLEARLY SECTION 1619 HAS HAD ITS POSITIVE EFFECTS BUT THEY HAVE NOT LIVED UP TO THE INTENT OR REACHED THE NUMBER OF RECIPIENTS EXPECTED. BY MAKING THIS PROVISION PERMANENT, AND BY INITIATING SEVERAL IMPROVEMENTS IN THE PROGRAM, INCREASING NUMBERS OF INDIVIDUALS WILL BE ABLE TO CALL UPON THESE PROVISIONS AS A STEPPING STONE TO GAIN COMETITIVE EMPLOYMENT.

THE COST-EFFECTIVENESS OF THIS PROGRAM SEEMS EASILY EVIDENT, SINCE THE HIGH COSTS OF GOVERNMENT SOCIAL SECURITY AND WELFARE BENEFITS CAN BE GREATLY REDUCED BY PROVIDING WORK OPTIONS FOR THE DISABLED. WHILE CURRENT DATA ON THE 1619 PROGRAM IS SOMEWHAT INCONCLUSIVE, I AM CONFIDENT THAT FUTURE ASSESSMENTS WILL VALIDATE SIGNIFICANT FEDERAL SAVINGS DUE TO PROGRAM PARTICIPATION.

PERSONS WITH DISABILITIES WANT TO WORK AND PARTICIPATE MEANINGFULLY IN THEIR SOCIETY. "THE EMPLOYMENT OPPORTUNITIES FOR DISABLED AMERICANS ACT" PROVIDES THEM A CHANCE TO REACH THIS GOAL WITHOUT JEAPARDIZING THEIR ECONOMIC OR MEDICAL SECURITY.

MR. CHAIRMAN, IN CONCLUDING, I WOULD LIKE TO SHARE ONE OF MANY LETTERS THAT I HAVE RECEIVED FROM THOSE AFFECTED BY THIS LEGISLATION. SHE WRITES:

> I DO NOT LIKE FEELING LIKE A MOOCHER. I KNOW THAT THE WORLD DOES NOT OWE ME ANYTHING BECAUSE OF MY DISABILITY. I WANT TO MAKE MY OWN WAY AS MUCH AS POSSIBLE...HOW WONDERFUL IT WOULD BE TO BE ABLE TO WORK AS MUCH AS MY STRENGTH WOULD ALLOW.

I LOOK FORWARD TO BEING ABLE TO WRITE HER AND SHARE THE NEWS THAT SHE CAN DO JUST THAT.

THANK YOU, MR. CHAIRMAN.

OPENING STATEMENT OF SENATOR DAVE DURENBERGER
SOCIAL SECURITY AND INCOME MAINTENANCE SUBCOMMITTEE
SENATE COMMITTEE ON FINANCE
HEARING ON S. 2209
JULY 30, 1986

I would like to begin by commending and thanking my colleague, Senator Armstrong, the chairman of this subcommittee, for scheduling this hearing on the proposed permanent extension of Section 1619 of the Social Security Act, S. 2209, and my colleague, the distinguished majority leader, Senator Dole, for sponsoring this measure and testifying before the subcommittee today.

This bill allows us the opportunity to recognize the effort and desire of the severely disabled to join the paid workforce without fear of losing their safety net of disability income and Medicaid coverage.

As policymakers we talk a great deal about how things "should be" and this is a clear case in which we can make things right. Those who are willing to work, despite a disabling condition, should be able to do so. The Social Security Act currently allows, under Section 1619, for disabled citizens to take part in "substantial gainful activity" or employment, to a degree without losing Supplemental Security Income and Medicaid eligibility.

Enacting S. 2209, providing for the the permanent inclusion of Section 1619 in the Social Security Act, will send a strong signal of support to the working disabled community, and will reinforce Congress' commitment to providing work incentives in all assistance programs. The opportunity to work part-time without fear of losing medical coverage or SSI benefits allows the disabled individual the chance to experience the fulfillmnent of participation in the working world.

I am encouraged by the already strong support for this measure, 32 cosponsors in the Senate and 79 in the House of Representatives, and I urge the timely reporting and passage of legislation which has already assisted so many disabled persons in obtaining something most of us take for granted: the chance to work.

STATEMENT OF GEORGE J. MITCHELL

Statement for Hearing on S.2209
Employment Opportunities for Disabled Americans Act
Subcommittee on Social Security and Income Maintenance
July 30, 1986

Mr. Chairman, as a cosponsor of S.2209, The Employment Opportunities for Disabled Americans Act, I welcome this opportunity to hear testimony from the bill's author, the distinguished Majority Leader, Senator Dole.

I believe it is important to eliminate any disincentives in the Social Security laws which may discourage disabled persons from seeking meaningful employment. The ability for such persons to work without jeopardizing their economic support or health benefits under Medicaid can provide an important safeguard which benefits both the disabled and the Federal government.

We cannot underestimate the importance of meaningful employment as a vital factor in the self-esteem of all persons, whether disabled or able-bodied. Those severely disabled persons, for whom this bill is targeted, deserve our support to help enable them to work if they are able to do so.

I look forward to Senator Dole's testimony on this bill and to the testimony of the other distinguished witnesses at this hearing today. I hope we will be able to report this bill favorably from the committee in the near future.

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SECTION 1619 OF THE SOCIAL SECURITY ACT: BACKGROUND

Prepared at the Request of the
Senate Finance Committee

Carmen Solomon
Analyst in Social Legislation
Education and Public Welfare Division
July 25, 1986

SECTION 1619 OF THE SOCIAL SECURITY ACT: BACKGROUND

Section 1619 is contained in title XVI of the Social Security Act, which governs the Supplemental Security Income (SSI) program. The SSI program provides monthly cash payments from U.S. general revenues to needy aged, blind, or disabled persons.

Under section 1619 of the Social Security Act a disabled individual can continue to receive SSI benefits and in most States Medicaid benefits, even if his monthly earnings exceed the regular disability limitation of $300 per month, as long as such earnings do not exceed the amount that would cause the Federal SSI payment (plus State supplement, if provided) to be reduced to zero, the point known as the "break-even" level. This level in 1986 is $757 monthly (higher if the recipient lives in a State that pays a supplement to the basic Federal benefit). Further, under certain circumstances, section 1619 allows both disabled and blind persons continued Medicaid coverage even after special SSI benefits have been terminated because of high earnings.

BACKGROUND

Under the SSI and Social Security programs (title XVI and title II, respectively, of the Social Security Act) a person is considered disabled if he is unable to engage in "substantial gainful activity" (SGA) by reason of a medically determinable physical or mental impairment that can be expected to result in death or that has lasted or can be expected to last for at least 12 months.

A provision in both titles II and XVI further specifies that an individual is considered disabled if (1) his impairments are so severe that he is unable to do his previous work; and (2) considering his age, education, and work experience he cannot engage in any other substantial gainful work that exists in the national economy, regardless of whether such work exists in the immediate area in which he lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied for work.

The disability definition is strict; it requires the presence of a medically determinable impairment as well as the inability of the disabled person to engage in substantial gainful activity. The concept of SGA is, therefore, a key element in the definition of disability.

Substantial Gainful Activity (SGA)

The Secretary of the Department of Health and Human Services is required by law to delineate the criteria for determining SGA. These criteria have been expressed in regulations (20 CFR 416.974) in the form of dollar amounts of earnings above which an individual would be presumed to be engaging in SGA, and therefore not disabled for purposes of SSI or social security.

Countable earnings above $300 a month generally are considered to show ability to engage in SGA (other than during a period of trial work). 1/ Before January 1, 1981, gross earnings above $300 were a basis for stopping SSI benefits.

1/ In determining whether earnings constitute SGA, the Social Security Administration subtracts impairment-related work expenses from the individual's gross earnings and then compares that sum to the SGA amount; if the sum is higher, the disabled person is presumed to be performing SGA. Impairment-related work expenses are the "reasonable" costs to the disabled person of certain items and services which, because of his impairment, he needs and uses to enable him to work.

Work Disincentives (Pre-1981)

In 1980, Congress was concerned that the SSI program might be discouraging disabled recipients from seeking employment. The SSI rule defining disability in terms of ability to engage in significant employment, rather than in terms of the severity of the physical or mental impairment, was perceived as a potential work disincentive. If an individual who had a severe handicap successfully performed any substantial gainful activity, he demonstrated that he no longer lacked the capacity for work. Although he was permitted a trial work period during which he could continue to receive SSI benefits, generally he was found ineligible after this period. While the SSI recipient's increased earnings would have at least partially offset his loss of cash benefits, he could have faced the loss of Medicaid coverage because eligibility for that program (title XIX of the Social Security Act) generally was tied to eligibility for at least one dollar of SSI benefits. Furthermore, some States restricted eligibility for title XX social services to recipients of cash welfare. Thus, a severely disabled SSI recipient thinking about taking a job was faced with a combined loss of benefits that could significantly outweigh the potential gain from earnings.

Although aged, blind, or disabled persons who are recipients of the SSI program are not expected or required to work, some of these persons want to work and do work. The issue of work disincentives in the SSI program was, to a large extent, resolved by Public Law 96-265, which included a number of provisions designed to encourage disabled recipients to attempt to return to work. The provisions enacted in the Social Security Disability Amendments of 1980, Public Law 96-265, (1) exclude impairment-related work expenses from income in determining SGA and monthly SSI payments; (2) provide a 15-month reentitlement period immediately following the 9-month trial work period, during which the recipient can continue to receive SSI benefits for any month in which he does not perform SGA without having to reapply for SSI; and (3) establish a new section, 1619, under which a three-year demonstration project providing special cash benefits and continued Medicaid eligibility was authorized. (As long as section 1619 remains in effect, the trial work period and the reentitlement period are not relevant.)

The three-year demonstration began in January 1981 and ended in December 1983. In 1984, the Social Security Administration continued the section 1619 program administratively, for those who were eligible on the expiration date (i.e., for persons already eligible for either regular or special SSI payments or continuation of Medicaid eligibility), under its demonstration project authority--section 1110 of the Social Security Act. The Social Security Disability Reform Amendments of 1984, Public Law 98-460, extended section 1619 provisions through June 30, 1987, retroactive to January 1, 1984. In addition, the 1984 Act requires the Secretaries of the Department of Health and Human Services and the Department of Education to inform SSI applicants, recipients, and potentially interested public and private organizations of the section 1619 program.

SECTION 1619: PRESENT LAW

Under section 1619(a) of the Social Security Act, disabled SSI recipients 2/ (under age 65) who work and earn more than the SGA amount and who therefore lose

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2/ Under section 1619, disability does not include statutory blindness. A blind individual (and an aged individual) can receive SSI under section 1611 (i.e., not subject to SGA limitations) regardless of work activity and earnings as long as he or she meets all other eligibility requirements and does not have countable income in excess of the amount that would reduce the Federal benefit (plus any federally administered State supplement which applies) to zero. Therefore, a blind individual has virtually the same continuing income protection while working that section 1619(a) authorizes for a disabled recipient who works.

eligibility for regular SSI benefits may receive a special SSI benefit. The amount of the special benefit is equal to the SSI payment the recipient would have been entitled to receive under the regular SSI program were it not for the SGA eligibility cut-off.

SSI benefits are reduced gradually to reflect increases in the recipient's earnings. Special benefit status is terminated when the recipient's income (including earnings) exceeds the amount that would cause the Federal SSI payment to be reduced to zero (i.e., the "breakeven" level). The special benefit, like the regular SSI benefit, may be augmented by State supplementary payments if a State elects to provide such payments.

Further, a person who receives special SSI benefits continues to be eligible for Medicaid on the same basis as regular SSI recipients as long as the disabled individual meets the medical criteria for disability and all other SSI eligibility requirements; and his or her income is less than the Federal SSI payment (plus State supplement, if available) minus countable income.

Under section 1619(b) of the Social Security Act, a disabled or blind recipient (under age 65) who was eligible for regular SSI benefits, special SSI cash benefits, or State supplementary payments in the month before eligibility determination, may acquire a special SSI eligibility status for purposes of Medicaid benefits if the Secretary of the Department of Health and Human Services finds that the disabled or blind individual meets certain conditions. These conditions are that he or she (1) continued to be disabled or blind, (2) would be eligible for cash benefits but for high earnings, (3) would be seriously inhibited from working if Medicaid coverage were lost, and (4) did not have earnings from work that were reasonably equivalent to the benefits (SSI, State supplement if provided, and Medicaid) that would be available in the absence of earnings.

The last two findings are made by (1) determining whether the recpient had been using Medicaid services during the preceding 12 months or was expecting to use Medicaid during the next 12 months and (2) comparing the individual's gross earnings to a "threshold" amount, which is equal to (a) the maximum monthly Federal SSI benefit plus State supplement, if given, plus $65 plus $20 all multiplied by 12 (for 12-month basis) and then again by 2 (for break-even level) 3/ plus (b) the average expenditures for Medicaid benefits for disabled SSI recipients in the States where the recipient is living. If gross earnings are lower than or equal to the threshold amount, it is presumed that the recipient's earnings are not a reasonable equivalent to benefits he otherwise would have had. If gross earnings are higher than the threshold amount, earnings are compared to actual expenditures for Medicaid services by the recipient in a given 12-month period rather than average expenditures. If gross earnings still are higher than the threshold amount, the recipient is considered to have earnings equivalent to benefits he might otherwise have been entitled to.

It should be noted that in 14 States, Medicaid eligibility is not automatically tied to SSI eligibility. 4/ Thus, in these States, a recipient who is

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3/ For example, the basic Federal SSI benefit currently is $336 a month or $4,032 for 12 months. Assume a State supplement of $100 a month or $1,200 for 12 months. Thus, the combined Federal and State benefits for 12 months would equal $5,232. To arrive at the amount of the first element used in the threshold we multiply the yearly benefit of $5,232 by 2 and add the yearly exclusions of $240 and $780 (as required by Federal regulations (20 CFR 416.269)). In this example, the usual threshold would be $11,484 for 12 months plus average Medicaid expenditures in the State.

4/ Each State has the option of restricting Medicaid coverage of SSI recipients by requiring them to meet any more stringent eligibility rule that the State applied on January 1, 1972, to Medicaid coverage of needy aged, blind, or disabled adults in programs that preceded SSI. States choosing the more restrictive criteria must allow applicants to deduct medical expenses from income in determining eligibility. As of February 1986, the following 14 States used more restrictive criteria than SSI in determining Medicaid eligibility: Connecticut, Hawaii, Illinois, Indiana, Minnesota, Missouri, Nebraska, New Hampshire, North Carolina, North Dakota, Ohio, Oklahoma, Utah, and Virginia.

eligible for SSI as a consequence of section 1619(a) or (b) is not necessarily eligible for Medicaid. 5/

DATA ON SECTION 1619

Public Law 96-265, the Social Security Disability Amendments of 1980, required the Secretary of the Department of Health and Human Services to submit a report to Congress, no later than January 1, 1985, on the effects produced by the section 1619 program. An initial report was submitted in January 1985, and a follow-up report is to be released soon.

The initial report indicated that the number of persons receiving section 1619(a) special cash payments increased from 287 in December 1982 to 406 in August 1984, a 41 percent increase. The average earnings of section 1619(a) recipients in August 1984 were $464. Approximately 54 percent of section 1619(a) recipients were men, and 46 percent were women. Roughly 62 percent of section 1619(a) recipients were between the ages of 22 and 39.

The number of persons receiving section 1619(b) Medicaid coverage rose from 5,515 in December 1982 to 6,804 in August 1984, a 23 percent increase. The average earnings of section 1619 recipients retaining only Medicaid coverage were $666 in August 1984. A little over 56 percent of section 1619(b) recipients were men; almost 44 percent were women. Approximately 60 percent of section 1619(b) recipients were between the ages of 22 and 39.

5/ Such a recipient may, however, be eligible for Medicaid coverage under a State's medically needy program. States also may cover the "medically needy" under their Medicaid programs. These are persons whose income and/or resources (as counted under eligibility rules of the relevant program of cash assistance) is above the State standard for cash aid provided that (1) they are aged, blind, disabled, or member of families with dependent children, and (2) their income (after deducting incurred medical expenses) falls below the State medically needy standard. Currently 38 jurisdictions provide medically needy coverage.

The Social Security Administration says that the upcoming report will have more complete data. The new report, among other things, is said to address the issue of whether the temporary status and complexity of the section 1619 program have discouraged work effort by recipients and job offers by employers; whether participants could be expected to quit their job if the program expired; and why most recipients do not work.

TABLE 1. Summary Table

	Disabled persons	
	Earnings limit	Medicaid benefits
Regular SSI	SGA, $300 monthly	yes, if in State where Medicaid eligibility is tied to SSI receipt
Special cash benefits	break-even level, $757 monthly*	yes, if in State where Medicaid eligibility is tied to SSI receipt
No cash benefit	above break-even level	yes, if in State where Medicaid eligibility is tied to SSI receipt and recipient meets all other SSI requirements and earnings are below the "threshold" amount

	Blind persons	
	Earnings limit	Medicaid benefits
Regular SSI	break-even level, $757 monthly*	yes, if in State where Medicaid eligibility is tied to SSI receipt
Special cash benefits	not provided	yes, if in State where Medicaid eligibility is tied to SSI receipt
No cash benefit	above break-even level	yes, if in State where Medicaid eligibility is tied to SSI receipt and recipient meets all other SSI requirements and earnings are below the "threshold" amount

*Plus State supplementary payment, if provided.

Senator ARMSTRONG. The subcommittee will come to order, please.

Friends, we are gathered this afternoon to hear testimony on S. 2209, the Disabled Americans Act of 1986, whose principal sponsor is Senator Dole.

This legislation would permanently enact into law a provision of the Social Security Act, section 1619, which was established in 1980 on a temporary basis to authorize what are known as special supplemental security income benefits for disabled individuals who wish to work without running the risk of losing disability benefits.

We had expected to begin the testimony this afternoon with Senator Dole, who is the principal sponsor of this legislation, but he has not arrived yet. And so it is my thought that we go ahead and hear first from the Commissioner of Social Security, Dorcas Hardy, and then pick up Senator Dole and Senator Domenici and Congressman Bartlett, and others, as they become available.

My own disposition is they had better get here quick or we will have the hearing over and the legislation enacted. And I have got his proxy for that purpose.

Commissioner Hardy, we are delighted to welcome you this afternoon and are looking forward to your statement.

STATEMENT OF HON. DORCAS R. HARDY, COMMISSIONER OF SOCIAL SECURITY, WASHINGTON, DC, ACCOMPANIED BY LOUIS D. ENOFF, ACTING DEPUTY COMMISSIONER FOR PROGRAMS AND POLICY

Commissioner HARDY. Thank you, Mr. Chairman. It is a pleasure to be here.

I am accompanied by Lou Enoff, Acting Deputy Commissioner for Programs and Policy. I have submitted a formal statement for the record which I would like to highlight for you.

The administration shares the committee's interest in encouraging disabled persons to lead very productive lives and to work when that is at all possible for them. And I think it is also very appropriate to acknowledge, as you have, Senator Dole's leadership in these efforts, especially his sponsorship of the original section 1619 provisions.

Before looking specifically at the bill, I would like to highlight some important developments in recent years concerning the disabled.

President Reagan has stated that people with disabilities can and should live full and rewarding lives, and that they only ask to be given the same opportunities to compete and achieve as everyone else.

I believe that section 1619 does this.

When I was Assistant Secretary, the President announced, as part of the National Decade of Disabled Persons, an employment initiative campaign. This is an ongoing effort that has increased employment opportunities for the developmentally disabled nationwide and promoted the concept that Americans with disabilities are a very valuable segment of our work force.

So the employment initiative, labeled "Hireability—it is good business to hire the developmentally disabled" is an ongoing initiative, and its most important aspect, I think, is the very strong involvement of the private sector and very responsive support from them in promoting employment opportunities.

Results have shown that our developmentally disabled citizens are extremely capable; they are a very reliable work force with attendance and long-term employment records in competitive employment at rates that are even better than those of nondisabled American workers.

Private sector employers have responded enthusiastically in this campaign over the past couple of years. We have placed more than 82,000 individuals into competitive employment, and this year alone we will place another 75,000.

We began with the food service industry, then expanded the pool of target industries to include the American Bakers Association, the American Hospital Association, and many other sponsors. Lots of people have really gotten involved and said, "We want to employ the disabled. We will make a commitment and it can be done."

It is a very positive story, and I think it is one upon which section 1619 builds.

This private sector initiative, an administration initiative, has focused on competitive employment, not make-work jobs. I think that is very important to remember.

These newly employed workers under the Hireability initiative will earn more than $400 million in gross annual taxable wages, and combined savings in public support costs and services will be approximately another $400 million.

Now as Commissioner, I would like to do all I can to assure that SSI and disability insurance beneficiaries are given the opportunity to work. And I am pleased that Secretary Bowen will soon announce the formation of the Disability Advisory Council, which was mandated by the 1985 Budget Reconciliation Act. This legislation directs the Council to study and make recommendations on the effectiveness of vocational rehabilitation programs for disabled Social Security and SSI beneficiaries, the use of work evaluation in making disability determinations, and other program aspects. But improving vocational rehabilitation services and the use of work evaluations will have little practical consequence, I believe, unless we have some significant incentives to return to work. And for this reason, I am also going to be asking the Council to address whether any changes should be considered in our programs to increase these incentives for work.

Section 1619 was originally enacted in 1980 for 3 years. The program was extended, again as a temporary demonstration, through 1987 to give sufficient time to collect and analyze data on the impact of the provision and to prepare our report to Congress.

I am pleased to let you know that the report to Congress on section 1619 was released this morning to the Congress and to the public, and I would like to share with you some of the findings.

In the overall Supplemental Security Income Program, of the disabled recipients—and there are about 2.6 million recipients—approximately 60 percent are over 40, 60 percent are female and 60 percent are white. About 48 percent are mentally impaired, with 22 percent of those being mentally retarded.

By contrast, our survey showed that of those that participated in section 1619, more than half were under the age of 30, and 58 percent were male. Seventy percent were white, somewhat more than in the regular SSI disabled population.

Although 64 percent of the participants in section 1619(a) have mental impairments, there is a somewhat lower percentage of mentally impaired individuals in section 1619(b)—48 percent—about the same percentage as the overall SSI population.

Section 1619 participants went into service occupations primarily.

Study results did show a high turnover rate among the participants, which I believe is positive. While in any given month, participation rates are fairly low, in the thousands, approximately 55,000 individuals, were covered by 1619 for some period since the provisions' inception.

For section 1619(b), which is the largest portion of the program, and is the one under which an individual may receive Medicaid benefits while working, the study showed that 58 percent of the participants, or more than half, were no longer covered by either Supplemental Security Income or section 1619 and have gone off the SSI rolls.

An additional 24 percent were back in the regular SSI Program and were no longer part of section 1619.

Reasons for leaving the Supplemental Security Income rolls include an increase in income, improvement or cessation of the disability or impairment, or a determination that Medicaid coverage was not necessary for continuation in employment.

While the motivational impact of section 1619 is not clear-cut, we are confident of the report's findings. When asked if the individual participating in the demonstration would reduce work if that were the only way to keep his or her SSI check or Medicaid coverage, about 30 percent said that they would reduce work activity. Medicaid utilization by these participants is relatively low compared with the entire SSI population.

So in trying to put all this together, our analysis suggests that section 1619 has resulted in estimated net savings to the Federal Government for fiscal year 1986 of $8.6 million. Our estimates show that these net savings may increase in subsequent years if the provision is extended, but variations that could be made in the estimates could lead to a projected net cost in out years.

The data in the report indicate that section 1619 did encourage disabled and blind Supplemental Security Income recipients to try working in spite of their conditions. For some, these work efforts might not have occurred in the absence of section 1619. For others, who would have attempted work in any case, the provisions have given an added incentive.

Although many of these efforts are of relatively short duration, the provision has reduced SSI Program costs, and Medicaid costs have not been as great as our initial expectations.

In light of these study findings, the administration is supportive of section 2 of S. 2209, that makes section 1619 a permanent provision of the law.

Senator Dole's proposal to make section 1619 permanent is a desirable change. It is an opportunity for disabled persons to achieve their potential, and gives them even more incentive to work in addition to what we have achieved otherwise in the employment initiative campaign and other parts of Health and Human Services. It is certainly a goal for all of us to enable the disabled to recognize their full potential and to be as independent as possible.

Work incentives are not always found in public programs, and I think that this is a very positive step in that direction. It also gives us an opportunity to continue to reach out to the private sector and to work with them very closely for this is not an undertaking that we can all do individually. It is the kind of thing that needs a lot of combined efforts. We have had good responses from the private sector and national voluntary advocacy organizations. And I believe their enthusiasm and our willingness to work together will continue to make this program work.

Thank you, Mr. Chairman. I will try to answer any questions.

Senator ARMSTRONG. Thank you, Commissioner.

For the benefit of my colleague, Mr. Durenberger, who has just arrived, and also for Congressman Bartlett, who has just arrived, we have sort of rearranged the agenda a little just to accommodate everybody's schedule. Senator Dole has not arrived and will be along shortly I guess.

Senator DURENBERGER, did you have an opening statement or beginning observations? If you would give us those at this point, then I would like to recognize Congressman Bartlett who has come to join us from the House.

[The prepared written statement of Commissioner Hardy follows:]

STATEMENT
OF
DORCAS R. HARDY

COMMISSIONER OF SOCIAL SECURITY

HEARING ON S. 2209
THE EMPLOYMENT OPPORTUNITIES
FOR DISABLED AMERICANS ACT

SUBCOMMITTEE ON SOCIAL SECURITY
AND INCOME MAINTENANCE PROGRAMS
COMMITTEE ON FINANCE
UNITED STATES SENATE

WEDNESDAY, JULY 30, 1986

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, I AM PLEASED TO BE HERE TODAY TO DISCUSS EMPLOYMENT OPPORTUNITIES FOR DISABLED AMERICANS. I WOULD ALSO LIKE TO COMMENT ON SENATOR DOLE'S BILL, S. 2209, THE "EMPLOYMENT OPPORTUNITIES FOR DISABLED AMERICANS ACT," PROVISIONS OF WHICH WOULD MODIFY AND MAKE PERMANENT SECTION 1619 OF THE SOCIAL SECURITY ACT.

THE ADMINISTRATION SHARES THIS COMMITTEE'S INTEREST IN ENCOURAGING DISABLED PERSONS TO LEAD PRODUCTIVE LIVES AND TO WORK WHEN THAT IS POSSIBLE FOR THEM. IT SEEMS FITTING IN THIS SETTING TO ACKNOWLEDGE SENATOR DOLE'S LEADERSHIP IN THESE EFFORTS, ESPECIALLY HIS SPONSORSHIP OF THE ORIGINAL SECTION 1619 PROVISIONS.

INCREASED OPPORTUNITIES FOR THE DISABLED

BEFORE DISCUSSING SENATOR DOLE'S BILL, I WOULD LIKE TO HIGHLIGHT SOME IMPORTANT DEVELOPMENTS IN RECENT YEARS CONCERNING THE DISABLED. PRESIDENT REAGAN HAS STATED, "PEOPLE WITH DISABILITIES CAN LIVE FULL AND REWARDING LIVES. THEY ASK ONLY TO BE GIVEN THE SAME OPPORTUNITIES TO COMPETE AND ACHIEVE AS EVERYONE

ELSE. TO PROVIDE THEM WITH THIS OPPORTUNITY IS NOT ONLY FAIR, BUT MAKES AVAILABLE TO SOCIETY A RICH POOL OF TALENTS AND AMBITIONS THAT WOULD OTHERWISE BE LOST."

AS I BELIEVE YOU KNOW, I HAVE A DEEP, PERSONAL CONCERN IN THIS AREA. IN MY PREVIOUS CAPACITY AS ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES, I STRONGLY SUPPORTED WORK INCENTIVES FOR THE DISABLED. THE OFFICE OF HUMAN DEVELOPMENT SERVICES (HDS) DURING MY TENURE MOUNTED AN EMPLOYMENT INITIATIVE CAMPAIGN, WHICH PRESIDENT REAGAN ANNOUNCED IN LATE 1983 AS A COMPONENT OF THE NATIONAL DECADE OF DISABLED PERSONS. THE CAMPAIGN IS AN IMPORTANT EFFORT TO INCREASE EMPLOYMENT OPPORTUNITIES FOR THE DEVELOPMENTALLY DISABLED AND TO PROMOTE THE CONCEPT THAT AMERICANS WITH DISABILITIES ARE A VALUABLE SEGMENT OF THE WORKFORCE. ANOTHER KEY ASPECT OF THE INITIATIVE IS THE STRONG INVOLVEMENT OF THE PRIVATE SECTOR AND ITS VERY RESPONSIVE SUPPORT IN PROMOTING EMPLOYMENT OPPORTUNITIES.

TRADITIONALLY, DEVELOPMENTALLY DISABLED INDIVIDUALS--A GROUP THAT MAKES UP A SIGNIFICANT PORTION OF THE DISABLED RECEIVING

Supplemental Security Income (SSI)--have been the hardest of the disabled to place in competitive employment. However, the results of HDS's studies have shown that they are capable and reliable workers. For example, attendance and long-term employment records of those who have jobs in competitive employment have been at rates better than the nondisabled American workers'.

We were pleased to find that many private sector employers have responded enthusiastically about the benefits and desirability of employing workers with developmental disabilities. In a 2-year period, more than 32,000 persons with developmental disabilities were placed in competitive employment.

The theme of the employment initiative is "Hireability -- It's good business to hire the developmentally disabled." We mailed information to 120,000 large and small businesses and met with trade associations, asking them to promote employment of disabled individuals through their newsletters and journals.

We began with the food service industry, horticulture industry and the hotel industry. Then we expanded the pool of target industries, diversifying to include the American Bus Association; American Bakers Association; the International Council of Shopping Centers; and small business and industries, the locally owned and operated businesses throughout the nation. Corporate and trade association partners in the initiative included Radisson Hotels, Denny's Restaurants, MacDonald's Corporation, and the Southland Corporation, as well as the American Hospital Association, the National Restaurant Association, the National Retail Federation and the National Catholic Educational Association. One of the most important things about this initiative is that we were developing competitive employment in the private sector, not supplying make-work jobs. Private industry exceeded our expectations in terms of their responsiveness to the initiative and their enthusiasm for hiring persons with disabilities.

IN ADDITION TO WORKING AGGRESSIVELY WITH THE PRIVATE SECTOR, WE OBTAINED THE SUPPORT OF MAJOR CONSUMER ORGANIZATIONS AND REHABILITATION AGENCIES WHO HAVE BECOME INVESTED IN MATCHING JOB-READY INDIVIDUALS WITH EMPLOYERS, AND WHO HAVE DEMONSTRATED CREATIVITY AND FLEXIBILITY IN IMPLEMENTING NEW TRAINING MODELS TO MEET THE INCREASED DEMANDS OF THE PRIVATE SECTOR. THERE ARE MANY MODELS WHICH DEMONSTRATE THAT SEVERELY DISABLED INDIVIDUALS CAN WORK WITH APPROPRIATE SUPPORT, AND AS THESE BECOME MORE WIDESPREAD I EXPECT OTHERS WILL DEVELOP WHICH WILL OPEN NEW OPPORTUNITIES FOR MANY WHOSE POTENTIAL HAS NOT YET BEEN TAPPED.

THE ECONOMIC BENEFITS HAVE BEEN IMPRESSIVE: THE 82,000 NEWLY EMPLOYED WORKERS WILL EARN ABOUT $400 MILLION IN GROSS ANNUAL TAXABLE WAGES AND THE COMBINED SAVINGS IN PUBLIC SUPPORT COSTS AND SERVICES WILL APPROXIMATE ANOTHER $400 MILLION. THESE FIGURES SHOW HOW BENEFICIAL EMPLOYMENT OF THE DISABLED CAN BE, NOT ONLY FOR THE DISABLED INDIVIDUALS, BUT ALSO FOR THEIR EMPLOYERS AND SOCIETY IN GENERAL.

As Commissioner of Social Security, I want to do all that I can to assure that SSI and disability insurance beneficiaries are given the opportunity to work. I am pleased that the Secretary will soon announce the formation of the Disability Advisory Council, which was mandated by the Consolidated Omnibus Budget Reconciliation Act of 1985. This legislation directs the council to study and make recommendations concerning the effectiveness of vocational rehabilitation programs for disabled Social Security and SSI beneficiaries, the use of work evaluation in making disability determinations, and other aspects of the Social Security and SSI disability programs. Improving vocational rehabilitation (VR) services and making better use of work evaluations are essential to any proposal to improve the disability system. But these changes will have little practical consequence unless disincentives to receiving VR services are eliminated and incentives to return to work are enhanced. For

THIS REASON, I WILL ASK THE COUNCIL TO ADDRESS WHETHER CHANGES SHOULD BE CONSIDERED IN THE PROGRAMS TO INCREASE INCENTIVES OR TO REMOVE DISINCENTIVES FOR BENEFICIARIES TO WORK.

MANY DISABLED INDIVIDUALS WOULD LIKE TO HAVE THE EXPERIENCES THAT THESE 82,000 INDIVIDUALS WHO PARTICIPATED IN THE EMPLOYMENT INITIATIVE CAMPAIGN HAVE HAD. HOWEVER, MANY DISABLED INDIVIDUALS RECEIVING SSI CASH BENEFITS OR MEDICAL ASSISTANCE FEAR LOSING THESE BENEFITS IF THEY WORK. SECTION 1619 WAS ENACTED IN 1980 AS A POSSIBLE STEP TOWARD REMOVING THIS FEAR FOR THOSE INDIVIDUALS WHO RECEIVE SSI.

REPORT ON SECTION 1619

SECTION 1619 WAS ORIGINALLY ENACTED ON A 3-YEAR DEMONSTRATION BASIS AS PART OF THE SOCIAL SECURITY DISABILITY AMENDMENTS OF 1980. IN 1984, CONGRESS EXTENDED THE PROVISION, AGAIN ON A TEMPORARY DEMONSTRATION BASIS, THROUGH JUNE 1987, IN ORDER TO PERMIT THE SOCIAL SECURITY ADMINISTRATION (SSA) AND THE HEALTH CARE FINANCING

Administration sufficient time to collect and analyze data on the impact of the provision, and to permit the Department of Health and Human Services (HHS) to prepare a report to Congress based on the data.

In addition to undertaking a study of the impact of section 1619, HHS (in cooperation with the Department of Education and State VR agencies) initiated a vigorous campaign to increase public awareness and understanding of section 1619 and the other work incentive provisions for the disabled. A number of specific outreach efforts, put in place during the spring and summer of 1935, have been integrated into HHS's ongoing program of public information. These were part of an equally vigorous campaign to heighten the awareness of SSA interviewing staff through intensive and specialized training on work incentives.

In the interest of clarity, I would like to describe briefly what section 1619 provides. Section 1619(a) provides a cash benefit and Medicaid to certain SSI recipients who continue to

PERFORM SUBSTANTIAL GAINFUL ACTIVITY DESPITE THEIR IMPAIRMENTS. SECTION 1619(B) PROVIDES MEDICAID COVERAGE TO DISABLED INDIVIDUALS, INCLUDING THE BLIND, WHOSE EARNINGS PRECLUDE AN SSI OR 1619(A) CASH BENEFIT.

MAJOR FINDINGS OF REPORT

I WOULD LIKE TO SHARE WITH YOU SOME OF THE FINDINGS OF THE HHS REPORT ON THE EFFECTS OF SECTION 1619.

DISABLED SSI RECIPIENTS.--FIRST, I THINK IT WOULD BE HELPFUL TO DESCRIBE TO YOU THE CHARACTERISTICS OF THE TYPICAL DISABLED OR BLIND SSI RECIPIENT. THERE ARE 2.6 MILLION SUCH INDIVIDUALS CURRENTLY ON THE SSI ROLLS, 64 PERCENT OF WHOM ARE OVER THE AGE OF 30. SIXTY PERCENT ARE WHITE AND 40 PERCENT ARE MALE. FORTY-EIGHT PERCENT OF ALL DISABLED SSI BENEFICIARIES ARE MENTALLY IMPAIRED WITH 22 PERCENT OF THOSE MENTALLY RETARDED. OF ALL DISABLED SSI BENEFICIARIES, A LITTLE MORE THAN 132,000 (5 PERCENT) ARE WORKING AND ARE EARNING AN AVERAGE MONTHLY EARNED INCOME OF $112.

Section 1619 Participants.--As of January 1986, of those 132,000 working SSI disabled and blind, 992 who were working were receiving benefits under section 1619(a) and 8,132 were covered by the provisions of section 1619(b). Those in section 1619(a) had an average monthly income of $475 while the average monthly income of those in section 1619(b) was $674.

Individuals in section 1619 are younger than the general SSI disabled population, with more than half under age 30. Seventy percent are white and 58 percent are males. Of the section 1519(a) participants, 64 percent are mentally impaired and 41 percent of those are mentally retarded. The percentages of the mentally impaired and mentally retarded for those in section 1619(b) are lower and, thus, closer to the general SSI disabled population.

Section 1619 Employment Histories.--For the individuals in section 1619, "service occupations" represent the largest single employment category. Most participants were employed in the

PRIVATE SECTOR. ABOUT 15 PERCENT OF THE SECTION 1619(A) PARTICIPANTS AND ABOUT 27 PERCENT OF THE 1619(B) PARTICIPANTS ENGAGED IN SHELTERED WORK.

STUDY RESULTS INDICATE A HIGH TURNOVER RATE AMONG PARTICIPANTS. ALTHOUGH IN ANY GIVEN MONTH PARTICIPATION RATES ARE LOW, APPROXIMATELY 55,000 INDIVIDUALS HAVE BEEN COVERED BY SECTION 1619 FOR SOME PERIOD SINCE THE PROGRAM'S INCEPTION IN 1981.

OF THOSE INDIVIDUALS WHO HAD BEEN IN SECTION 1619(A) STATUS AT SOME TIME DURING THE PERIOD FROM MAY 1982 THROUGH MAY 1985, 62 PERCENT WERE NO LONGER COVERED BY EITHER REGULAR SSI PROVISIONS OR THE PROVISIONS OF SECTION 1619(A) OR (B), AND 15 PERCENT WERE AGAIN RECEIVING REGULAR SSI BENEFITS. OF THOSE INDIVIDUALS WHO RECEIVED COVERAGE UNDER SECTION 1619(B) DURING THE SAME 3-YEAR PERIOD, 58 PERCENT WERE NO LONGER COVERED BY EITHER REGULAR SSI PROVISIONS OR THE PROVISIONS OF SECTION 1619(A) OR (B), WHILE 24 PERCENT WERE AGAIN RECEIVING REGULAR SSI BENEFITS. THOSE WHO

HAVE LEFT THE SSI ROLES MAY HAVE DONE SO FOR SEVERAL REASONS. FOR EXAMPLE, AN INDIVIDUAL MAY HAVE HAD AN INCREASE OF EARNED OR UNEARNED INCOME TO LEVELS THAT MADE HIM INELIGIBLE, HE MAY HAVE HAD HIS IMPAIRMENT EITHER IMPROVE OR CEASE, OR IT MAY HAVE BEEN DETERMINED THAT THE TERMINATION OF COVERAGE UNDER MEDICAID WOULD NOT SERIOUSLY INHIBIT HIS ABILITY TO CONTINUE HIS EMPLOYMENT.

MOTIVATIONAL IMPACT OF SECTION 1619.--WHEN ASKED IF THEY WOULD REDUCE WORK IF THAT WERE THE ONLY WAY TO KEEP AN SSI CHECK OR MEDICAID COVERAGE, ABOUT 30 PERCENT OF SECTION 1619(A) AND 21 PERCENT OF SECTION 1619(B) RECIPIENTS RESPONDED THAT THEY WOULD REDUCE WORK ACTIVITY.

MEDICAID UTILIZATION.--AS FAR AS THE MEDICAID PROGRAM IS CONCERNED, MEDICAID UTILIZATION BY SECTION 1619 PARTICIPANTS IS RELATIVELY LOW AS COMPARED WITH THE ENTIRE SSI DISABLED POPULATION. THE PER CAPITA EXPENDITURE RATE FOR ALL DISABLED SSI RECIPIENTS IS 2.3 TIMES GREATER THAN THE EXPENDITURE RATE FOR SECTION 1619 BENEFICIARIES.

COST OF THE PROVISION.--ALTHOUGH DIFFICULT TO MEASURE, OUR ANALYSIS SUGGESTS THAT THE SECTION 1619 PROGRAM HAS RESULTED IN SOME SAVINGS TO THE FEDERAL GOVERNMENT. FOR FISCAL YEAR 1986, SSI SAVINGS FROM THE PROGRAM ARE ESTIMATED AT $9.6 MILLION, AND ESTIMATED ADDITIONAL COSTS TO THE MEDICAID PROGRAM ARE $1 MILLION. THIS IS AN ESTIMATED NET SAVINGS TO THE FEDERAL GOVERNMENT OF $8.6 MILLION DOLLARS. OUR ESTIMATES SHOW THESE NET SAVINGS MAY INCREASE IN SUBSEQUENT YEARS IF THE PROVISION WERE EXTENDED, BUT VARIATIONS IN SAVINGS ESTIMATES COULD EASILY PROJECT A NET COST IN THE OUT-YEARS.

THE DATA IN THE REPORT SHOW THAT SECTION 1619 MAY HAVE ENCOURAGED DISABLED AND BLIND SSI RECIPIENTS TO TRY WORKING IN SPITE OF THEIR CONDITIONS. FOR SOME, THESE WORK EFFORTS MIGHT NOT HAVE OCCURRED IN THE ABSENCE OF SECTION 1619. FOR OTHERS, WHO WOULD HAVE ATTEMPTED WORK IN ANY CASE, THE PROVISIONS HAVE GIVEN AN ADDED INCENTIVE. ALTHOUGH MANY OF THESE EFFORTS ARE OF RELATIVELY SHORT DURATION, THE PROVISION SEEMS TO HAVE REDUCED SSI

PROGRAM COSTS, WHILE MEDICAID COSTS HAVE NOT BEEN AS GREAT AS EXPECTED.

THE ADMINISTRATION SUPPORTS SECTION 2 OF S. 2209 THAT MAKES SECTION 1619 A PERMANENT PROVISION OF LAW. WE WILL SUBMIT OUR VIEWS ON THE OTHER PROVISIONS OF S. 2209 IN A FORMAL BILL REPORT.

CONCLUSION

SENATOR DOLE'S PROPOSAL TO MAKE SECTION 1619 PERMANENT IS A DESIRABLE CHANGE IN THE SSI PROGRAM, AND WE FAVOR MAKING THIS CHANGE. WORK INCENTIVES IN PUBLIC PROGRAMS GIVE US A BROADER BASE FROM WHICH TO REACH OUT TO THE PRIVATE SECTOR. THE TASK OF FULLY INTEGRATING DISABLED PERSONS INTO THE MAINSTREAM OF OUR ECONOMY IS TRULY DEPENDENT ON THE INVOLVEMENT OF ALL FACETS OF THE ECONOMY.

I BELIEVE WE CAN ALL AGREE ON THE BASIC GOAL--THE VITAL TASK OF ENABLING DISABLED PERSONS TO REALIZE THEIR FULL POTENTIAL IN OUR SOCIETY. THAT GOAL DESERVES OUR COMBINED BEST EFFORTS. WE NEED TO MATCH THE ENTHUSIASM OF THE PRIVATE SECTOR AND THE

RESPONSE FROM NATIONAL VOLUNTARY AND ADVOCACY ORGANIZATIONS WITH OUR OWN ENTHUSIASM AND OUR WILLINGNESS TO WORK TOGETHER. I LOOK FORWARD TO WORKING WITH THIS COMMITTEE AS WE ADDRESS THE ISSUES INVOLVED IN WORK INCENTIVES FOR DISABLED INDIVIDUALS.

I THANK YOU FOR THE OPPORTUNITY TO APPEAR BEFORE YOU AND WOULD BE HAPPY TO ANSWER ANY QUESTIONS YOU MAY HAVE.

Senator **Durenberger**. Yes, Mr. Chairman. Unfortunately, I am chairing what, I hope, is one of the last Superfund conferences right now. But I think one of the first, if not the first bill, I cosponsored when you and I came to the Senate in 1979, was the forerunner of 2209. I think it was S. 519 or 591, something like that. And since then I have done work on related issues like the homework amendments we got through here in 1980 and 1981, and so forth. And I really appreciate your taking the time to have this hearing today and to continue to keep the issue before us, or the opportunity before us; and, in part, because over the last few weeks, as I recall our sitting around here, some of our colleagues have decried the fact that, in reconciliation, for example, we were spending a great deal of money in entitlement programs for this country, on behalf of persons who were not necessarily in some demonstrable need, but we were fulfilling a societal obligation which we had undertaken at the time. We created various trust funds.

Here, you, Mr. Chairman, are clearly dealing with a part of the Social Security Act, in which both the coincidence of need and opportunity are very, very obvious. And the question always has been, how do you do it right? How do you do it most effectively? Before us is the new Administrator of Social Security, the person who has a record for doing things effectively. I think we can count on a lot of help from her. And I certainly encourage you and the rest of my colleagues in your efforts to move this bill, which has a huge number of cosponsors, as quickly as possible.

I compliment Steve for his work on the House side. And I would ask you to take the balance of my statement and include it in the record as though I stayed here to deliver the whole shooting match.

Senator **Armstrong**. Well, we are grateful to you for coming by, and we certainly will put your statement in the record. And I think the committee and everyone who is interested in this subject is grateful to you for your leadership and interest in this over a long period of time.

And my assumption is this will be offered as an amendment to the debt limit bill simply because that is what we are doing with all of the rest of the legislation this year. So we will stick this on there too.

Senator **Durenberger**. I will be right next to you.

Senator **Armstrong**. Good. Good. Thank you, Dave.

Before we continue—and I have a question or two that I would like to address to the Commissioner—but just in the interest of time, and recognizing that Congressman Bartlett may be called at any moment back to the floor to vote, I would like to recognize Congressman Steve Bartlett, of Texas, who has come to testify on this. And we are honored to have you with us, and would be glad to have your statement in writing, or verbally, or both ways, as you prefer.

STATEMENT OF HON. STEVE BARTLETT, A U.S. CONGRESSMAN FROM THE STATE OF TEXAS

Congressman **Bartlett**. Thank you, Chairman Armstrong. I have submitted a more lengthy statement in writing than I will deliver verbally, but it seems to me that on this panel there are a few things that need to be said, and I will cover them with your permission. I will then provide my written statement for the committee record.

First of all, I think we are all appreciative of your leadership as chairman and all the members of the Finance Committee for holding this hearing on this legislation, and, more particularly, not for holding a hearing to sort of gather up a record for the next session of Congress, but with the intent of moving this legislation. We have been gathering the record on both sides of the Capitol for the last 2 years. I think that this is a significant hearing in that it is designed to move the legislation of which we are also prepared to do on the House side.

I think it is important to recognize, what I know one of the witnesses will be along later, and that is the Majority Leader, Senator Dole, for his commitment to the legislation. Considering the precious little time in the remainder of this congressional session, it seems to me that Senator Dole's willingness to place the bill on his personal agenda and your willingness, Senator Armstrong, to place this bill for action, is a testimony to your determination and to his, to help persons with disabilities to get a job and to keep that job.

I also, both on a personal and an official level, want to express my appreciation for the assistance of the new Commissioner of the Social Security Administration, Dorcas Hardy, for her efforts on behalf of reform in this area. I told her when she was nominated, and as she was confirmed, and as she took the oath of office, that we were going to give her about 10 days to 2 weeks to pass legislation like this, and I see that she is hot on the job of doing what needs to be done, She has provided enormous support for removing work disincentives for disabled persons and that is evident in the positive disposition that the Social Security Administration is taking toward permanently authorizing section 1619.

Now the focus of this bill, Mr. Chairman, is this. It is to remove a major disincentive that is created to the employment of disabled persons that was inadvertently created when section 1619 was given temporary status when it was passed. This is a narrowly focused bill that does not attempt to sweep away all the Federal disincentives to employment that are facing persons with disabilities. Such broad disincentive legislation is desparately needed, but it is not achievable in the remainder of this session. This legislation is achievable.

Senate bill S. 2209 is a final step, I think, in the evolution of the 1619 Program that began in 1980 when Senator Dole and Senator Moynihan and others acted on the realization that given the proper incentives and services, persons with severe disabilities could overcome their handicaps and achieve their dream of independence.

The 1619 Program was created then to assure disabled SSI participants of continued access to Medicaid if they became employed. The difficulty that we have discovered—and it has been discovered since then—is that the temporary nature of the 1619 Program turned out to be a disincentive in and of itself, however inadvertent that disincentive was. Because the program is not permanently authorized, the dilemma is presented to potential participants, and that has led to a significant underutilization of the program. Fear that the program would expire—and, Mr. Chairman, the program was allowed to expire at one point for some 9 months in 1983, so that fear is not necessarily unfounded—fear that the program would expire or be terminated then proves to be a major disincentive itself. It is a testimony to the will to work of persons with disabilities that some—we learned the numbers this week—55,000 of those persons have participated in section 1619 since 1980 anyway. For the risk that they face in a temporary program is one in which very few able bodied persons would willingly confront.

Under a temporary 1619 Program, individuals face a dilemma. They have to choose between not working with health coverage or working with the risk of loss of that health coverage. And given those options, the surprising statistic, to my mind, is not how many individuals have chosen not to work but rather that so many risk the loss of health care in order to be employed. Enactment of 2209 would take that particular risk out of employment.

Now these are other provisions in this bill in addition to the permanent authorization of 1619. We would also seek to provide automatic reinstatement to those whose income fluctuates or is of an infrequent nature. And I have provided information to the committee which would verify that this is desparately needed. We would allow individuals who are institutionalized to keep their benefits for up to 60 days once within a 2-year period. We would require SSA to notify potential participants on a periodic basis of the availability of section 1619. And, where feasible, we would require SSA to designate a section 1619 specialist in the district offices, and we would require GAO to conduct a study of the effects of the program.

Now earlier this week, the Commissioner told us that earlier this week Social Security has released some of their most recent data about section 1619, and a number of conclusions came to my mind as I looked over that data. The Commissioner has given you, in part, some of those.

The first thing that strikes you is that there are some 8,800 persons with disabilities participating in section 1619 today. Now while that is very low—less than one-half of 1 percent of the total eligible population—that is an increase of about 1,600 from a year ago when the legislation was first introduced. And so I think that this use of 1619 is becoming increasingly available. Social Security has done a good job in making it available over the last year to 15 months. And there is some other data which I have included in my written testimony.

Let me jump over to a comment about who benefits from 2209 when it passes.

Mr. Chairman, at the risk of oversimplifying, I would say for the record that there are two rather large groups of individuals who benefit from permanently authorizing section 1619 and simplifying its administration.

First, persons with disabilities, and, second, the taxpayers.

Now the benefits to persons with disabilities are obvious and have been widely discussed. The benefits to taxpayers are also very significant and can be quantified. And we sometimes overlook them. The Commissioner has testified that this year, 1986, we estimate the Government will have a net savings of about $8.6 million with a small number of participants. By 1990, just with the participants today, it is estimated to increase to some $16 million, Mr. Chairman. But for every person who participates in 1619(B), and who would otherwise receive a full SSI benefit, the Federal Government saves for that person alone, for cash benefits alone, about $4,000 a year. So for every 10,000 new persons who would participate in 1619(B), the taxpayers would save $40 million a year of cash benefit savings only, in addition to the additional savings from a reduction of Medicaid cost to the government.

I have provided two additional changes that the committee may wish to consider, changes that have become apparent since the legislation was originally introduced.

The legislation has enormous support on a bipartisan basis in both bodies. In the House version, H.R. 4450, we currently have 81 cosponsors, 43 Republicans, 38 Democrats. It includes the chairman and ranking members of three of the subcommittees of Ways and Means.

Mr. Chairman, in conclusion, I want to again thank you and the members of your committee for pressing this legislation through to a successful conclusion. There is no reason to have to start over after January. There are other disincentives that do need to be started on in January. We need to get this one behind us.

Mr. Chairman, S. 2209 will improve the lives of a significant number of heroic Americans whose days are filled with obstacles, and barriers, and routine tasks that take tremendous personal efforts to perform. Every day thousands of disabled Americans get up 2 hours earlier than their nonhandicapped peers because it takes them that much longer to get ready for work.

They navigate a public transportation system that can be unaccommodating, and they deal with the awkward attitudes of an unfamiliar public. They overcome tools that do not fit their unusual grips, and written instructions that are beyond their ability sometimes to read and understand.

In order to be employed, these disabled Americans deal with and overcome a host of problems and disincentives that nondisabled Americans do not have to even think about.

S. 2209 is a modest attempt to remove, one, unnecessary barrier. Those who choose to make that heroic effort deserve any effort that we can make to remove those unnecessary disincentives to employment.

And I thank the chairman for his time.

Senator ARMSTRONG. Well, Congressman Bartlett, we are really appreciative of your very, very fine statement. You articulate the need for this legislation with great clarity and persuasion, and we thank you for coming.

I am joined by my colleague, Mr. Moynihan, who may have a statement or may wish to ask you a question. And I think I heard your buzzer go off. So I guess you are leaving.

Congressman BARTLETT. I do have a vote, Mr. Chairman.

Senator MOYNIHAN. Mr. Chairman, Congressman Bartlett has completely persuaded me. Thank you, sir. [Laughter.]

Congressman BARTLETT. Thank you.

Senator MOYNIHAN. Thank you for coming over.

[The prepared written statement of Congressman Bartlett follows:]

Statement of

CONGRESSMAN STEVE BARTLETT

to

SUBCOMMITTEE ON SOCIAL SECURITY AND INCOME MAINTENANCE PROGRAMS

of

COMMITTEE ON FINANCE

of

THE U.S. SENATE

with respect to

S.2209
THE EMPLOYMENT OPPORTUNITIES FOR DISABLED AMERICANS ACT

July 30, 1986

Mr. Chairman, I want to express my sincere appreciation to you and the Members of the Finance Committee for holding this hearing on S.2209, the Employment Opportunities for Disabled Americans Act. I would also like to recognize one of the major architects of the Section 1619 program, the distinguished Majority Leader, Senator Robert Dole, for his commitment to this legislation. Considering the precious little time that remains in this Congressional session, Senator Dole's willingness to place this bill on his personal agenda is testimony to his determination to help persons with disabilities get a job and keep it. I would also like to recognize the assistance of the new Commissioner of the Social Security Administration, Dorcas Hardy for her efforts on behalf of this legislation. Commissioner Hardy's support of removing work disincentives for disabled persons is evident in the positive disposition that SSA is taking toward permanently authorizing Section 1619.

This bill removes a disincentive to employment that was inadvertently created when Section 1619 was given temporary status. It is a narrowly focused bill that does not attempt to sweep away all Federal disincentives to employment facing persons with disabilities.

S.2209 is a final step in the evolution of the 1619 program that began in 1980 when Senator Dole, Senator Moynihan, and other Members of the Senate Finance Committee acted on their realization that, provided with the proper incentives and services, persons with severe disabilities could overcome their handicaps and achieve their dream of independence.

The Section 1619 program was created to determine if the Substantial Gainful Activity (SGA) level was a disincentive to employment for persons with disabilities receiving SSI benefits. The program does this by allowing reduced SSI payments up to the break-even point (which is approximately $735 in most states) and extending Medicaid eligibility.

Unfortunately, the temporary nature of the 1619 program has presented a dilemma to potential program participants, and has led to significant under-utilization of the program. Fear that the program would expire (as it did for some 9 months in 1983), or be terminated by Congress, has proven to be a major disincentive. It is a testimony to the will-to-work of persons with disabilities that some 55,000 of them have participated in 1619 since 1981, for the risk they face in a temporary program is one which no able-bodied person would willingly confront.

Under a temporary 1619 program, individuals have to choose between: not working with health coverage, or working and risking the lose of health coverage. Given these options, the surprising statistic to my mind is not how many individuals have chosen not to work, but rather, that so many risk the loss of health care in order to be employed.
Enactment of S.2209 will take the risk out of employment. The bill also simplifies the Section 1619 program making it easier to use and administer.

S.2209 contains a number of other provisions affecting disabled persons receiving SSI, in addition to permanently authorizing Section 1619:

Section 3 of the bill allows Section 1619 participants who are institutionalized to remain eligible for benefits for up to two months. This eligibility is provided to such individuals once within a two year period. Some Section 1619 participants, particularly those who are mentally ill, may require periodic institutionalization. This institutionalization generally lasts between 45 and 60 days. Under the current program requirements, these individuals are not eligible for program benefits above $25 and are likely to lose their community residence and fail to meet their monthly financial obligations. Allowing them to remain eligible for full benefits for up to two months once within a two year period will assist those individuals who require this temporary institutionalization to return to the community and their job.

Section 4 of the bill requires the Social Security Administration to designate a Section 1619 specialist within district offices where feasible and provides automatic reinstatement to those Section 1619 participants whose income fluctuates. Section 1619 can appear intimidating to those who do not routinely administer it. Providing a specialist will serve to minimize administrative reluctance to implement the program.

The issue of automatic reinstatement is second only to permanent reauthorization in regards to removing the programs disincentives. Section 1619 participants whose income fluctuates to the point where they become ineligible for benefits one month, must currently face a 2 to 3 month period without benefits while their eligibility is being re-determined. S.2209 proposes to solve this problem with language which maintains the SGA as a technical part of the definition for continuing eligibility. An additional provision which the Committee may wish to consider to the current language of S.2209, would be to ignore SGA in establishing continuing eligibility for SSI as currently done for blind SSI recipients. The SSI payment level would depend on the level of earned income, but the eligibility for SSI status would be assured as long as the individual originally met the SSI criteria. Once a person established SSI status, they would retain that status until medically recovered or until terminated for non-disability reasons. This administrative simplification would enable the Social Security Administration to avoid tracking trial work periods, "unsuccessful work attempts," extended periods of eligibility, 15 month re-entitlement periods, and impairment related work expenses as an SGA deduction which do not effect a recipient's eligibility for benefit payments or Medicaid under Section 1619.

A second issue which the Committee may wish to consider involves Medicaid usage. Apparently utilization of Medicaid eligibility during one year serves as something of a ceiling in terms of the usage one is permitted the next year. Because persons with severe handicaps may have health needs which vary from one year to the next, this policy leaves a significant number of individuals without sufficient coverage during periods of their working lives. It has been suggested that language be included in the legislation which would clarify that one year's usage of Medicaid does not serve as a ceiling for subsequent years.

Section 5 of the bill requires that the Social Security Administration notify all individuals receiving SSI disability benefits of their eligibility for benefits under Section 1619 at the time of their initial SSI award and periodically after their income reaches $200 or more per month. Utilization of the Section 1619 program will depend significantly upon potential participants awareness of it, and this provision will improve that awareness.

Section 6 of the bill requires the Comptroller General to conduct a study of the operation of the 1619 program which will provide useful information toward maximizing its effectiveness.

Section 7 of the bill allows individuals whose entitlement to child's insurance benefits under SSDI would make them ineligible for the SSI disability benefits, to continue to remain eligible for Medicaid, so long as they would have remained eligible in the absence of the SSDI benefits. Currently those SSI beneficiaries who become eligible for SSDI Medicare benefits must wait two years for Medicare eligibility and lose their Medicaid eligibility immediately. These individuals truly fall between the cracks of the two programs. This provision provides them with a disregard that allows them to maintain the Medicaid eligibility.

Section 8 of S.2209 extends the Social Security Administrations waiver authority and Section 9 makes the effective date that of the date of enactment.

SSA has recently released some of their most recent data about Section 1619 and a number of facts caught my attention that reinforce the need to enact this legislation.
*There are approximately 8,800 persons with disabilities participating in the Section 1619 program representing an increase over previous years.
*1619 participants are younger than the SSI disabled population as a rule and over half remain employed for at least 12 months.
*They tend to be employed in private companies and many find work in service occupations.

*The general utilization rate of Medicaid is 2.3 times higher in the general SSI population than in the 1619 population.
*1619 participants tend to move in and out of the program reinforcing the need to streamline the reinstatement procedures.
*SSA estimates that authorization of 1619 will result in significant net savings.

Two groups will benefit from permanently authorizing 1619 and simplifying its administration: persons with disabilities and taxpayers.

For every person who participates in the Section 1619(b) program and who would have otherwise received a full SSI benefit of $336, the Federal government saves a little over $4,000 a year. For every ten thousand persons who participate in 1619(b), we save $40 million per year, and bear in mind that 10,000 persons represents only one half of one percent of the total number of disabled persons receiving SSI.

A recent Wisconsin survey, which is part of the House legislative history on this bill, has suggested that as many as 20% of SSI recipients with physical disabilities would want to work if their access to Medicaid were not jeopardized, as provided under Section 1619. This figure is reinforced by the recent SSA data.
In addition to the cash benefit savings, we know this same 1619(b) participant will pay income and Social Security taxes, and a significant number of Section 1619(b) participants are being covered by their employer's health insurance plan, leading to additional savings in Medicaid.

One Member of Congress has suggested that S.2209 be designated the "The Common Sense Act of 1986" because it benefits everyone involved in the SSI disability program. I believe that this characterization is quite apt. The legislation has universal support from the disability community and true bipartisan support in both the House and the Senate. The House version which I introduced, H.R. 4450, currently has 81 co-sponsors, 43 Republicans and 38 Democrats including the Chairmen and Ranking Members of 3 of the Subcommittees of the Ways and Means Committee.

As I indicated earlier the focus of S.2209 is narrow and it represents just one piece of the larger puzzle of providing assistance and incentives to persons with disabilities.
The status of the typical working age disabled American is a serious concern; the number of working-age disabled persons living in poverty is startling. In 1980, 26 percent of working-age disabled persons lived below the poverty line. While making up approximately 8.8% of the working-age population, these same individuals made up 20% of all persons of working age living in poverty. According to the recent Lou Harris poll, 75% of adults with disabilities are unemployed and two-thirds of these individuals want to work.

Mr. Chairman, again I'd like to thank you and the Members of the Committee and in particular Senator Dole, for your interest in this legislation. S.2209 will improve the lives of a significant number of heroic Americans whose days are filled with obstacles, barriers and routine tasks that take tremendous personal efforts to perform. Every day thousands of the disabled Americans get up two hours earlier than their non-handicapped peers because it takes them that much longer to get ready for work. They navigate a public transportation system that can be unaccommodating and deal with the awkward attitudes of an unfamiliar public. They overcome tools that don't fit their unusual grips and written instructions that are beyond their ability to read and understand. In order to be employed, these disabled Americans deal with and overcome a host of problems that non-disabled Americans don't have to consider. S.2209 is a modest attempt to remove an unnecessary barrier. Those who choose to make these heroic efforts deserve any effort we can make to remove disincentives to that employment.

Senator ARMSTRONG. Senator Moynihan, prior to your arrival we did hear from Commissioner Hardy, and I had really only one question that I wanted to put to the Commissioner just so that we have it on the record.

As I understand it, you have testified in support of this legislation, the effect of which is to simply remove the notion of substantial gainful activity as a criteria in disability reviews.

What I want to be sure that we have on the record, and I did not hear you say it, although you may have, is the question about whether or not the $300 a month standard which was adopted in 1980 is appropriate. Have you any position on that? Or has the administration taken a position on that?

Commissioner HARDY. That is an issue Mr. Chairman, that I believe the Disability Advisory Council needs to take a hard look at.

Senator ARMSTRONG. All right.

Commissioner HARDY. I believe it has been addressed before in different kinds of forums, and I think it is one that should come up again in the Disability Advisory Council. I believe that should be part of the charter.

Senator ARMSTRONG. I thank you very much.

Senator Dole has arrived. And prior to your arrival we have heard some good testimony from the Commissioner and from Steve Bartlett, who came over from the House. They say this is a wonderful piece of legislation. And so we wanted both sides of the story to be heard, if you have anything to add to that.

Senator DOLE. Well, I want to second whatever they said if the conclusion is accurate. But I want to thank, first, you, Mr. Chairman, for holding these hearings. I think this is an important piece of legislation. It is not major in the sense that it is going to change the world, but it is going to change the lives of many people.

It is the kind of legislation that I think is nonpartisan or bipartisan, whatever. It has been cosponsored by 33 of my colleagues. And what it does is removes the disincentives in the supplemental security income system for recipients who work despite their disability, which I think is something that we all strive for.

I do not want to go over a lot of this because I think it has probably already been stated. Maybe Dorcas has mentioned this, and maybe you have already testified on this. The Social Security Administration released their report on what it has done on the analysis of Public Law 98-460, section 1619. Since January 1981, 55,000 persons have participated in section 1619 compared with the general SSI disabled population. These individuals are younger: 84 percent are under age 40, in 1619(A), and 79 percent under age 40 in section 1619(B), versus 39 percent under age 40 in the general SSI population.

Participants are most frequently mentally impaired or mentally retarded. And while figures on the savings cost are soft, I think it is correct to say the estimates—and I can be corrected on this—based on actual experience, that would net Federal savings in 1986 to about $8.6 million, which, again, is not much by our standards around this Congress, but it is a great deal of money. And by 1990, the program would save as much as $16.4 million.

And so I am just here to support the legislation, here to commend Congressman Bartlett and others who are working with us on the House side.

I thank Senator Moynihan, of course, one of our original cosponsors, along with Senators Bentsen and Cranston, in other words, a good bipartisan mix. And I would hope that we could take action on this bill yet this year. This is the kind of a bill that we could take to the floor without, I would hope, a great deal of controversy, and maybe discourage our colleagues from offering other amendments which are not relevant in an effort to pass it yet this year.

Senator ARMSTRONG. Thank you, Senator Dole.

Unless there is something further for the Commissioner, I am prepared to move on to the panel. Commissioner Hardy, is there anything more you want to have on the record?

Senator MOYNIHAN. Mr. Chairman.

Senator ARMSTRONG. Senator Moynihan.

Senator MOYNIHAN. Well we have Miss Hardy here on a different subject. If I could just ask, as you recall, the Finance Committee amended the provisions with respect to disclosure of disinvestment and the general handling of the social security trust funds in situations where the debt limit had been reached. We were not able to have you before us because we did this in the context of some other matters. And I just wonder if I could ask you if I am correct in my understanding that the revised Senate Finance Committee action meets with your approbation and approval, support?

Commissioner HARDY. Yes, Senator, it does. We have worked with Treasury, and have been involved in working together to ensure that we are heading in the same direction on this particular issue, so that it doesn't happen again. And to the best of my knowledge, we are very supportive, as is Treasury.

Senator MOYNIHAN. Fine.

Would you just take one last look at the legislation because we are going to be voting on it?

Commissioner HARDY. Yes, sir.

Senator MOYNIHAN. And if you have any problems, we will take silence to denote assent.

Commissioner HARDY. To make sure we are all correct, yes, sir.

Senator MOYNIHAN. Fine. Thank you.

Senator ARMSTRONG. Thank you very much.

Commissioner HARDY. Thank you, Mr. Chairman.

Senator ARMSTRONG. We are now glad to welcome a panel consisting of Mr. Dennis Beitz, of Breakthrough House, in Topeka, KS; Mr. Richard H. Leclerk, Community Counseling Center, of Pawtucket, RI; and Patrick Babcock, Department of Mental Health, of Lansing, MI.

I suppose the place to start is asking if I have pronounced Mr. Beitz' name correctly. Is that close?

Mr. BEITZ. It's Beitz.

Senator ARMSTRONG. Say it again.

Mr. BEITZ. It is Beitz.

Senator ARMSTRONG. Beitz. All right. Mr. Beitz, we are glad to have you here, and I will try and handle your name with greater care.

We are on a fairly tight time schedule, but we are eager to hear your testimony. So, Mr. Beitz, would you begin, please?

STATEMENT OF DENNIS BEITZ, EXECUTIVE DIRECTOR, BREAKTHROUGH HOUSE, TOPEKA, KS

Mr. **Beitz**. First of all, I would like to tell you that I appreciate the opportunity to come here and testify.

I am executive director of Breakthrough House, which is the oldest and largest psychosocial club center in Kansas. I am testifying on behalf of Breakthrough House, the Mental Health Association of Kansas, as well as 30 organizations that make up the Social Security Task Force of the consortium of citizens with developmental disabilities.

In addition to the written testimony which I have already submitted, I would like to submit a copy of testimony that our secretary, Robert Harder, Kansas Department of Social and Rehabilitation Services has written in support of the bill. So I would like to place that in the record, if I may, please.

[The statement of Mr. Harder follows:]

STATEMENT BY DR. ROBERT C. HARDER
SECRETARY, KANSAS DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES
IN SUPPORT OF SENATE BILL 2209

The Kansas Department of Social and Rehabilitation Services enthusiastically endorses Senate Bill 2209, the Employment Opportunities for Disabled Americans Act. By making permanent the current 1619(a) and (b) provisions of the Social Security Act and including several important improvements, the bill takes a major stride toward removing employment barriers as well as fostering employment opportunities for the severely disabled. As a result, greater self reliance and independence will be promoted and rewarded.

It is a well established fact that one of the primary barriers which prevent disabled persons from seeking and obtaining employment is the lack or loss of adequate medical coverage through the workplace. The Section 1619 program has successfully removed this barrier by allowing persons who lose their SSI beneficiary status due to excess earnings to retain Medicaid eligibility as though they continued to receive an SSI benefit. This is particularly important due to the fact that federal Medicaid law and regulations mandate that the states only provide coverage to persons who are SSI recipients. The loss of beneficiary status in many states thus results in the loss of Medicaid eligibility. As a significant number of SSI clients have no other form of health insurance coverage, such a loss is devastating as well as potentially life threatening. As a result of this situation, dependence upon the SSI program is fostered.

The State of Kansas does apply SSI criteria in determining Medicaid eligibility for its disabled population. Persons who receive SSI benefits and those who currently qualify for 1619 status receive automatic Medicaid coverage. Through the existence of a medically needy program, Kansas also provides Medicaid coverage to persons who are ineligible for SSI because of excess income. Thus, even without the current 1619 provisions, disabled persons who go to work and lose their SSI eligibility could continue to qualify for Medicaid. However, such persons would become responsible for payment of some if not all of their medical expenses, depending on the amount of income and medical expenses, because of the spenddown concept. Through the continuation of the 1619 program, this responsibility would not exist. This provides an added employment incentive as it allows the client's income to be totally directed toward meeting his or her nonmedical needs. The overall fiscal impact to the State of providing such automatic coverage to 1619 eligibles is minimal.

The bill does make a number of improvements to the current program which the department also endorses. These include allowing more rapid reinstatement of SSI eligibility to former 1619 eligibles whose earnings decrease and a continuation of benefits for short-term stays in a state hospital. The department also has been informed of a proposed amendment to the bill which would apply the 1619(b) provisions to those states which use more restrictive eligibility criteria in their Medicaid programs than are applicable in the SSI program. In these states, automatic Medicaid coverage is not granted because of the more restrictive criteria and, thus, such a amendment would provide necessary protection to this group. Although Kansas is not an affected state, we would strongly support this change.

We appreciate the opportunity to present testimony in support of this measure. The efforts of Senator Dole are to be commended.

Mr. **Beitz**. I think it is important that we look at this bill and we support the bill as far as specific section 1619 is concerned. What we have is a lack and a loss of adequate medical coverage, and that being the primary barrier to many citizens as far as seeking employment when they have a disability.

At the same time, disabilities are expected to be responsible for all their living expenses plus medical costs, and this is in addition to having substandard income.

I think perhaps this may be why, under the current legislation, we have only 4.7 percent of the SSI recipients that are earning any kind of income. So I think that might speak to the conditions that need to be changed as far as the bill is concerned.

To kind of give you examples of the situation, I have some specific cases I would like to quickly refer to that will let you kind of see some of our clients as far as Breakthrough House is concerned.

The first case deals with a client who is 34 years old, and she has a very poor work history, a limited work history. Through working with our Transitional Employment Program, she became one of our model residents, and as a result, she started getting into the competitive work force.

What she had was medication costs of about $60 a month. She had no car, limited food, limited food money and rent money.

She was rehospitalized quite suddenly. And in discussing the case with her and her employer, what we found is that she was afraid she was going to lose her medical card. So rather than lose her medical card, she terminated her employment.

Now what we have in that situation, she has been hospitalized for three months at $300 a day. That is costing taxpayers money that way.

A second case, a similar situation, where an individual, a 25-year-old white male, was hospitalized five times, and he was fired from six different positions, and was modeled as a pre-transitional employment candidate. Upon discussing the situation with him it was basically the same thing. He was afraid of jeopardizing his medical card and his SSI payments. So he would do something to get himself terminated from his positions.

The last example deals with an individual who is a 42-year-old black female, had nine hospitalizations. She was a computer programer. And what she would do is become quite proficient. And she quit without notice. And in examining the situation with her and her employer, what we found was she had lost her SSI payments for 6-months; could not get those back. She is fearful of another 6-month payment, or lack of payments. And she had no medical card and her employer had no medical insurance, so she is fearful of that situation occurring.

There are some fundamental flaws that we think we want to address as far as the legislation is concerned. Most of those have been spoken to in previous testimony. But basically what we have is on an all or nothing basis. And what we have, if individuals are impaired they cannot work, or if they are employed they are expected to be fully supportive of themselves. So we know that nothing is completely black and white.

The specific areas where we would like modifications to be considered by the committee deals with 2209(B), which is an amendment that would allow those 14 States to be included in this legislation as far as being eligible with SSI being attached to the Medicaid eligibility.

A second deals with the reentitlement to the SSI section of 1619 individuals. Currently, an individual must go through the complete reapplication process. That is enough to deter many of these individuals from reapplying.

We are asking that an amendment be made so that if they have been eligible within the last 30 days that they continue to be eligible.

The third has to do with inclusion of blind individuals. I am sure this is a technical error as far as the committee is concerned, but we do have some individuals that are blind who are recipients of SSI payments. Title 14 requires specific reference to blind when referring to disabled. We would like the amendment to include "and blind" with the disabled.

The next one deals with institutional benefits. Currently, the way the law is written, it does not include all SSI recipients, and it only includes those individuals that are in institutions. We would like to include all SSI recipients to be covered with that.

With the information we have and the media dealing with the homeless with long-term mental illness in this country, this will help eliminate some of those situations like that and I think it is important to have.

The last area that we wish to have an amendment dealing with deals with changes in the trial work definition. Currently, the law allows an individual to work in transitional employment or supportive employment work areas for 9 months and not have that count against him as far as the amount of time when they become eligible for financial support as far as social security is concerned.

It is currently being told by the Social Security Administration that when an individual has worked 9 months, and has earned $300 and then continues to earn that $300 after the 9-month period, that they are no longer disabled, and that they then stop the full financial support. We are asking that languages be introduced so that transitional employment programs and supportive employment programs not be included in this trial work.

That is all my testimony. Thank you very much.

Senator **Armstrong**. Thank you, Mr. Beitz. We are grateful to you for coming by today with the other panelists.

Mr. Leclerc. And have I pronounced your name correctly?

Mr. **Leclerc**. It is frequently pronounced "Leclerc" in Rhode Island.

Senator **Armstrong**. All right. Thank you.

[The prepared written statement of Mr. Beitz follows:]

TESTIMONY PRESENTED TO

SOCIAL SECURITY SUBCOMMITTEE

COMMITTEE ON FINANCE

UNITED STATES SENATE

Regarding S 2209

The Employment Opportunities for Disabled Americans Act

by
Dennis Beitz, Ph.D., Executive Director
Breakthrough House, Topeka, Kansas

On Behalf of:

American Academy of Child Psychiatry
American Association of Children's Residential Centers
American Association for Counseling and Development
American Association for Marriage and Family Therapy
American Psychiatric Association
American Psychological Association
American Council of the Blind
American Foundation for the Blind
American Association on Mental Deficiency
Association for Children with Learning Disabilities
Association for the Education of Rehabilitation Facility Personnel
Association for Retarded Citizens
Conference of Educational Administrators Serving the Deaf
Convention of the American Institute for the Deaf
Council of Organizational Representatives
Epilepsy Foundation of America
International Association of Psychosocial Rehabilitation Services
Mental Health Law Project
National Alliance for the Mentally Ill
National Association of Private Residential Facilities for Mentally Retarded
National Association of Private Schools for Exceptional Children
National Association of Protection and Advocacy Systems
National Association of State Mental Retardation Program Directors
National Association of State Mental Health Program Directors
National Council of Rehabilitation Education
National Easter Seal Society
National Head Injury Foundation
National Mental Health Association
National Rehabilitation Association
The Association for the Severely Handicapped
United Cerebral Palsy Associations, Inc.

and the 100-member
Save Our Security Coalition

Introduction

My name is Dennis Beitz. I am Executive Director of Breakthrough House in Topeka Kansas. I am here to testify on S2209, the "Employment Opportunities for Disabled Americans Act" on behalf of the Mental Health Association in Kansas and the 30 national organizations listed on the cover of this statement, which are members of the Social Security Task Force of the Consortium for Citizens with Developmental Disabilities.

The purpose of this act is to remove a major disincentive to employment faced by persons with disabilities. This legislation introduced by Senators Robert Dole, Pete Domenici, David Pryor, David Durenberger, Bill Bradley, Lloyd Bentsen, John Heinz, John Chafee, William Roth, George Mitchell and Max Baucus and now sponsored by over 30 members of the Senate, will permanently authorize Section 1619 of the Social Security Act.

The current federal Supplemental Security Income program has a fundamental flaw that generally grants benefits on an "all or nothing" basis. The system assumes that people are so impaired that they cannnot work or it assumes that employed persons with disabilities can fully support themselves. For a large number of people with mental and/or physical disabilities, neither of these assumptions is correct.

Here are some case examples from my experiences at the Breakthrough House:

Case Example #1: Female, 34 years of age, white, single, six hospitalizations, SSI/Medical Card recipient, and currently in a Kansas state mental hospital ward.

Client has a limited and poor work history, she managed to be one of our model clients with the aid of our Transitional Employment Program. Her work habits improved to the extent that she was ready to graduate into the competitive work force. She applied for and was hired in a part-time position. Due to the increase in income her SSI payments were reduced and she was about to lose her medical card. She had medication costs of $60.00 per month, no car, and limited money for food and rent.

One week before she would have lost her medical card she had to be rehospitalized. "The stress and fear of not enough money and loss of my medical card was too much," she said. She has been in the hospital for three months at a cost of $300.00 per day.

Case Example #2: Male, 25 years of age, white, single, five hospitalizations, SSI/Medical Card recipient.

The client had a very limited work history. He worked in our pre-vocational work training units and with our Transitional Employment Program. The client progressed well enough to be hired in a part-time position. He was fired from this position and five other similar positions.

Staff reviewed the case and interviewed the employers and the client. The results were that the client would purposely get fired when his salary would become high enough to jeopardize his medical card and SSI payments.

Case Example #3: Female, 42 years of age, black, single, one dependent, nine hospitalizations, SSI/Medical Card recipient.

The client was successful as a computer programer. Her mental illness and hospitalizations had not allowed her to work for more than a seven year period. She proved to be successful as a Transitional Employment Program client. She was placed in four different work environments. She quit each position without notice or reason.

Staff reviewed the case and work history. The findings were that the client had been employed and lost her SSI/Medical Card benefits. She later had to be rehospitalized. Her insurance did not cover related expenses and it took her six months to regain her SSI/Medical Card benefits. The client indicated her fear of having the same losses occur again, so she resigned each time she thought she was about to lose her benefits.

In most instances, people with disabilities can work independently or with some employment-related support services, including sheltered workplaces. However, the jobs offered to them are often part time and usually pay low wages without health coverage. Without the Section 1619 special benefits, persons with disabilities who work are expected to be totally responsible for work expenses, such as transportation, as well as for extra needs such as wheelchairs or medical equipment. It is impossible to expect people on such limited incomes to fully support themselves as well as fund the extra needs of a disability or illness. It is for these financial reasons that many SSI recipients who are disabled have to choose between the security of SSI payments and comprehensive Medicaid health care coverage or the insecurity of low wage jobs with no health benefits and the frequent turnovers they often face in the job market because of limited skills.

The current SSI system, without section 1619, determines that individuals earning over $300 a month after their trial work period are no longer disabled, and therefore, ineligible for SSI and Medicaid. A slight increase in income above $300 per month usually results in a complete loss of health care benefits. However, a $300 a month income is inadequate to provide for the needs of a person with disabilities. This contributes to the fact that only 4.7% of SSI recipients who are disabled earn any income.

S. 2209

The Employment Opportunities for Disabled Americans Act would permanently authorize the incentives to employment in Section 1619 of the Social Security Act. This section provides special cash benefits to individuals who, despite severe disabilities, work at or above the substantial gainful activity (SGA) level. The bill would also provide continued Medicaid and Title XX eligibility to those persons who are severely disabled and need Medicaid or social services in order to continue working.

Advocates are aware that the lack of permanent status for this provision has reduced the number of participants because many persons fear jeopardizing their continued access to benefits after the 1619 program expires in June 1987. S. 2209 would give the program the stability it requires to be truly effective. We urge that Section 1619 be permanently authorized to provide those persons with disabilities who need on-going support the opportunity to work and earn, to become as independent as possible, and to contribute their skills and productivity to this country's work force.

Strengths of S. 2209

- S 2209 will require the Social Security Administration to notify prospective participants about the program as well as designate a Section 1619 specialist in SSA district offices to encourage its utilization.

This will correct a major problem, the lack of awareness about the program among persons with disabilities, their families, rehabilitation counselors and other service providers. This is due to the Social Security Administration's failure to publicize the program in its early years, and their difficulty in making SSA staff fully knowledgeable about the Section 1619 benefits. Although it has been in existence since 1980, only 7200 persons among the 1.8 million working age people with disabilities participate in the program.

- S 2209 amends the Social Security Act to authorize that individuals who are working, but whose disability requires that they be admitted to a public institution for a brief period of time, will continue to receive their SSI benefits.

This provision is necessary because temporary hospitalization is very likely to occur in cases of individuals with chronic mental illness and other disabilities, even for those who are able to work for a good part of their lives. It is imperative that these individuals continue to receive full benefits, rather than the $25 personal needs allowance, so they can pay their rent and other bills while they are hospitalized. Without the SSI check, the chances that such persons can regain their previous level of independence, or return to their jobs, following temporary hospital care are greatly diminished.

> *S. 2209 provides automatic reinstatement to those individuals whose irregular income would make them ineligible.

This provision ensures that unusual, and infrequent or irregular income, such as a small inheritance or insurance payment, will not result in the removal of a person with disabilities from the disability rolls, when in fact that person's condition has not changed.

> * Section 7 of S. 2209 continues Medicaid coverage for those "adults disabled during childhood" whose SSDI payments are too high for them to remain eligible for SSI and, therefore, Medicaid.

This provision is designed to correct a problem for adult SSI recipients who can lose Medicaid coverage because of the amount of Social Security Disability Insurance (SSDI) benefits they receive. Under current law, SSI beneficiaries who begin receiving SSDI benefits when a parent retires, dies, or becomes disabled may find their SSDI benefits high enough (approximately $356 per month, depending on other income) to cause them to lose their eligibility for SSI and Medicaid. They are then faced with a two-year wait before they are eligible for Medicare benefits which even then may not cover the services they had previously received under Medicaid. Although the number of persons affected in this way is considered to be relatively limited, the correction of the problem will benefit them greatly.

* S 2209 restores the linkage between Section 1619 and Title XX Social Services.

With this provision, necessary support services such as supportive home care, furnished through the Social Services block grant, could continue to be available to Section 1619 participants.

* S. 2209 authorizes a GAO study of the effects of Section 1619's work incentive provisions both on the lives of persons with disabilities and on government programs.

Data from such a study should prove extremely valuable in designing further modifications, if needed.

Amendments to S 2209

While we strongly support the passage of S. 2209, there are a few important modifications we urge the Committee consider.

209(b) States

Our coalition is extremely concerned because the current Section 1619(b) program cannot operate fully in 14 states. In those states, Medicaid eligibility is not tied automatically to SSI eligibility, as provided in Section 209(b) of 1972 Social Security Amendment. Unless Medicaid benefits can be assured for SSI recipients who want to work, very few individuals in those 14 states will be able to use the Section 1619 program. Each of the 14 states has different Medicaid eligibility rules. Some SSI recipients who are disabled can meet the Medicaid eligibility criteria in their various states according to SSA data, and some are receiving Section 1619 benefits. However, others cannot meet the Medicaid criteria and so cannot participate in Section 1619. The lack of a uniform national policy is a problem.

The coalition therefore strongly endorses the amendment introduced by Senator Pete Domenici (NM), and cosponsored by Senators Robert Dole (KS) and Lowell Weicker (CT), to correct this problem, and commends them for their leadership. We urge the Committee to add the provisions of the Domenici amendment to S 2209, so all individuals in those fourteen states who require Medicaid coverage in order to work may be eligible for such coverage. Some individuals will need the Medicaid coverage before they can begin to work, and the bill authorizes such coverage, but limits it to no more than six months if for any reason the beneficiary does not begin to engage in work.

Re-entitlement to SSI for Section 1619 individuals

S. 2209 could make the road to permanent employment and greater independence even less frightening to persons with severe disabilities. Some people are afraid that if they begin to work something may happen to their jobs-- the need for their services may disappear, their employer's situation may change, or they may simply be laid off for any number of reasons. How, they ask, if another suitable position is not available, will they be able to become reentitled to regular SSI benefits? How long will it take?

Under the current Section 1619 program, an individual may earn enough to no longer recieve the special cash benefits but may continue to receive Medicaid under Section 1619(b) if those services are needed to maintain employment. If circumstances change so that earnings drop or cease, the individual is not eligible for special benefits under Section 1619(a) or for regular SSI benefits under Section 1611. A person cannot automatically return to cash benefits, but must instead go through a new assessment of eligibility before receiving SSI. Since one requirement for eligibility for Section 1619 benefits is that the individual continue to meet all criteria for eligibility for SSI, except for earnings, it should not be necessary to leave the individual with no benefits while a redetermination of eligibility is made should these earnings cease for any reason.

S. 2209 should be amended to provide that individuals may become re-eligible for special cash benefits under Section 1619(a) or for regular benefits under Section 1611, if in the previous month they were eligible under Section 1619(b). This provision would give them the security to try to work, and should they not succeed, to try again. Without such a provision, many persons with severe disabilities will not have the financial lee-way to risk their small, but secure SSI checks by attempting to work. To be consistent, Section 4(c) of the bill (which allows for regaining eligibility when the beneficiary receives income of an "unusual and infrequent or irregular nature") should be amended to apply only in cases of "unearned income".

Inclusion of Persons who are Blind

Due to what we believe are technical errors, S. 2209 applies only to recipients of SSI who are disabled and not to those who are blind. Under Title XVI it is necessary to specifically reference "blind persons" wherever a reference is made to "disabled persons", otherwise blind persons will not be covered. We urge the Committee to review S. 2209 and insert the words "and blind" after "disabled" in all sections which amend Title XVI.

Institutional Benefits

S. 2209, Section 3 (discussed earlier) unfortunately limits institutional benefits to individuals on the Section 1619 program and further to those persons who have not used the institutional benefit during the past two years. This provision could assist many other SSI recipients with disabilities to maintain more stable living arrangements, and help prevent homelessness among mentally ill persons.

We urge you to extend the benefit under Section 3 to all SSI recipients.

Changes in Trial Work Definition

Another serious impediment to people with mental impairments returning to competitive employment involves SSA's interpretation of the trial work provisions in Title II and XVI of the Social Security Act. By law, people with disabilities can go to work and still receive benefits during a nine month trial work period. At the end of the nine-month period, if the individual continues to work and earns at least $300 per month, the Social Security Administration considers the individual no longer disabled and stops all financial support.

Many people with mental impairments participating in supervised supported employment or transitional employment programs have been seriously hurt by the current interpretation of trial work. In transitional employment or supported work programs, individuals with disabilities work with support at part-time, paid, mostly entry-level jobs provided by business and industry. Staff of rehabilitation facilities learn the jobs first and stay with the individuals as long as required for them to learn and feel comfortable on the job, which can be as little as a week to 10 days, or even on a more-or-less permanent basis. Jobs often are time-limited and a person with impairments might have three or more such part-time jobs during his career in the rehabilitation facility. The objective of the program is to strengthen the individual's capacity for independent employment, or at least greater independence and higher levels of self-sufficiency.

For the large number of persons with disabilities who have residual work skills, (i.e. persons who historically have been served in sheltered workshops, work activity centers and similar settings), supported employment is rapidly emerging as the preferable program option. The point to be made is that transitional employment and supported work are integral parts of rehabilitation programs and other similar facilities around the country. The program cannot succeed if participants are at risk of losing their SSDI or SSI benefits because their participation in these programs are treated as trial work.

We urge the Committee to modify the definition of trial work so that transitional employment programs and supported employment are not included. The language we recommend is: "Services shall not include activities for remuneration or gain which are performed as part of a supervised program of rehabilitation, therapy or training."

Deeming of Parental Resources

Often children who are disabled or blind with low-income working parents are income-eligible for SSI, but found ineligible because of "excessive" resources. This is because under current regulations, all resources above $1,700 for a single parent and $2,550 for two parents are "deemed" available to the child who is disabled or blind, even if there are other children in the household who are not disabled or blind. The current deeming rules make no distinction in resource allocation based on family size.

Parents need to be able to retain at least modest resources for retirement, children's education, unusual needs of children who are disabled or blind and other purposes. We therefore recommend a change in the law to permit parents to exempt amounts for their other minor children in the household before deeming resources to the child who is disabled or blind. Under this arrangement, a family of two parents and two children, one of whom is disabled or blind, could exempt $4,250 ($2,550 for the two parents and $1,700 for the child who is not disabled or blind) before deeming the remaining resources to the child who is disabled or blind.

Other SSI Improvements

There are a number of other changes to the SSI program which Congress has considered in recent years, which we urge the Committee to act upon. These are contained in HR 4471, introduced in the House by Congressman Stark (Ca). Most of the changes are cost-neutral and deal with treatment of income and resources, eligibility, emergency assistance, standards for group living facilities, outreach, special notices to the blind and benefits for residents of public institutions. The provision with the most significant cost is an increase in the Personal Needs Allowance to $35 a month, which we strongly urge the Committee to act upon. It is extremely difficult for institutionalized persons to meet all costs of personal care needs for only $25 a month. This figure has not been raised for 12 years and we believe it is time for an increase to help offset the effects of inflation over the years.

Conclusion

As well as benefiting persons with disabilities who are on SSI, Section 1619 will provide a cost savings to the federal government. According to Senator Bob Dole, in FY 1984 the federal government paid $5.9 billion in cash benefits to individuals with disabilities. For every person who is able to leave the cash assistance rolls because of Section 1619 (who would have received a full SSI benefit of $336) the federal government will save over $4,000 a year. If only 10% of individuals with severe disabilities achieve that level of employment through this program, there is potential savings of $590 million. In addition to these savings, there is increased revenue to the government because those persons with disabilities who become employed also become tax paying citizens.

The "Employment Opportunities for Disabled Americans Act" will contribute significantly, both financially and emotionally, to the lives of persons with disabilities who are able to work. Our society places a great value on the intrinsic value of work as a path towards independence, and as an opportunity to make a meaningful contribution to the community. Working has also proved to be an effective form of rehabilitation for people with disabilities.

For too long people with disabilities in America have faced discrimination that prevents them from leading independent lives in society. Section 1619 will remove the major disincentives to work in the SSI law and will mark an important step in improving the lives of persons with disabilities who are trying to lead productive lives in society. We urge the Committee to quickly approve S. 2209, with the modifications described above.

STATEMENT OF RICHARD H. LECLERC, EXECUTIVE DIRECTOR, COMMUNITY COUNSELING CENTER, PAWTUCKET, RI

Mr. LECLERC. Thank you very much, Mr. Chairman, for the opportunity to speak with you today and for the privilege of providing you with some testimony on Senate bill 2209.

This bill has broad range support in the State of Rhode Island among the Department of Mental Health, among service providers, mental health centers and adult retardation facilities.

I come to you today not as an expert in social security or income maintenance, but as a person who has worked part in the field of mental health, who heads an agency that provides community-based mental health services to about 450 long-term mentally ill adults, and who works with the division of mental health to provide a system of care that was recently, according to a Ralph Nader report, ranked the second best in the country. I believe we just eeked out the great State of Colorado who placed third in that report.

I have submitted written testimony to you and would like to highlight some of that if I may.

Persons with disabilities have routinely experienced difficulty in obtaining and keeping a job, even during times of economic boom and low unemployment. A subset, of course, of that disabled population which has historically, and even currently, fared worst among disability groups, are the psychiatrically disabled, the long-term mentally ill.

The general population is probably more inclined to be benevolent I feel toward certain disability groups than others. The mentally ill is by and large not liked as a disability group. The mentally ill experience high stigma, are scapegoated, and are often misunderstood.

It is no wonder that in our experience the mentally ill have routinely experienced greater difficulty in vocational and employment areas. Review of the literature conducted by the Center of Rehabilitation Research and Training in Mental Health in Boston has indicated that employment rates of the mentally ill for the last 10 years have in the best of times been 20 to 30 percent, and in the worst of times among the deinstitutionalized population very close to zero.

Times of high unemployment—excuse me. In addition to high unemployment rates among the disabled, there are even higher unemployment among the long-term mentally ill.

They have as a group experienced lower wage rates, lower promotional opportunities, and because they are usually the last to be hired are the first to be laid off.

Our experience, supported by research, clearly indicates that despite the value placed on work in America, that despite the importance of work in earning a living, increasing self-respect adding to an identity, keeping occupied, and providing social outlet, work and work-like activities for disabled and especially for the long-term mentally ill is generally not within reach.

Although an individual's disability is in and of itself a major barrier to employment, there continues to exist a number of institutional barriers and disincentives to employment.

The Employment Opportunities for Disabled Americans Act is intended to address some of those disincentives and is applauded as a good first step.

The passage of this act I feel will accomplish a number of things.

First of all, it will provide incentives for the disabled to try work, to try a life of dignity and identity for self. It will permit a certain group among the mentally ill that I alluded to in my written statement to you, called the Young adult chronic, which has received significant publicity, at least in groups concerned about the mentally ill, about that particular subset. They are defined as individuals between the age of 18 and 35, not institutionalized, experiencing multiple frequent short-term hospitalization, not generally complying with treatment, not seeing themselves in the role of a patient or of a person with a disability.

An example I would like to read to you, which is very short, is an example of how this particular bill will promote work opportunities among the young adult mentally ill that have not been institutionalized and they are being kept in the community.

This individual's name is Tony. He is a young man in his midtwenties living in the Pawtucket area. He is an SSI recipient and has had a number of psychotic breaks requiring inpatient care. About 3 years ago he was hospitalized on five separate occasions. He lost faith in the mental health system and in himself.

About 2 years ago, with the help of a job placement program—funded, I may add, by the Job Training Partnership Act—Tony began working part time as a janitor. During his 9-month trial work period, this individual complied with his medication and attended counseling and treatment programs.

Tony continued to work part time with advocacy from his caseworker and was declared eligible for continued benefits under 1619, part A and B. Tony's part time job became full time last year. He continued receiving medical benefits for 6 months, the period of time necessary as a waiting period before enrolling in the employer's Blue Cross/Blue Shield Plan.

Tony is no longer an SSI recipient. He works full time, drives a car. He is beginning to train others in janitorial maintenance at his place of employment.

He is entrusted with the keys to the plant and routinely makes bank deposits.

Tony has not been hospitalized in the past 2 years ever since he became employed and compliant with treatment. Without 1619, Tony would not have been able to continue working. Without medical benefits, he could not afford the expensive medication and biweekly lab workups. Without the provisions of 1619, Tony would not be working today and probably would continue to be in and out of psychiatric hospitals.

This is one example of many, many cases.

In addition, this particular bill, Mr. Chairman, I feel would help public relations for 1619. The sense is that the provisions in 1619 are a well-kept secret. It is not as available or is misunderstood by SSI recipients. There is a great reluctance on the recipient's part to run the risk of losing medical benefits or income. And they do need to be notified, they do need to be made aware of 1619, and the

Social Security staff at the local offices needs to better understand this particular provision of this program.

This public education and awareness would help promote 1619 among the older chronically mentally ill.

This bill would realign Federal policy with the more creative and innovative programs now being developed in the community, such as supportive work, affirmative industries.

Earlier testimony was provided supporting that particular avenue.

Most importantly, this bill would allow the part time employed individual to keep medical benefits. This has been, in our opinion, the major incentive for employment.

If I may make two recommendations as a concluding remark—and you alluded to this earlier, Mr. Chairman—that a recommendation that may not be exactly pertaining to 1619 but is related to incentives to employment is increasing the level of SGA, substantial gainful employment, from the present level of $300 a month.

We feel that this is inadequately low. And given the fact that other—those with visual impairments have a level of $610 a month. And I am happy to hear that the council being formed will be looking into that.

The last recommendation is that determination of eligibility for 1619 of an SSI recipient should be made at some point in time where the person is not running the risk of losing total benefits. It should be made somewhere in the trial work period, not waiting until the last point. It should be made with clear-cut criteria that both the recipient and the workers involved with this particular recipient are aware of the risk that may occur and can best inform the client.

I thank you very much for inviting me today and for allowing me to present this testimony.

Senator ARMSTRONG. Thank you. We appreciate your participation.

Mr. Babcock.

[The prepared written statement of Mr. Leclerc follows:]

HEARING ON (S.2209)

"The Employment Opportunities for Disabled Americans Act"

Testimony provided by Richard H. Leclerc, ACSW
Executive Director
Community Counseling Center
Pawtucket, RI

I would like to thank you for this opportunity of speaking before you today and welcome the privilege of providing you with testimony supporting Senate Bill 2209 "The Employment Opportunity For Disabled Americans Act". This bill would make permanent section 1619 of the Social Security Act by authorizing continued payment of social security and benefits for individuals who work despite severe medical impairment. This proposed legislation is a positive step in eliminating employment disincentives for the disabled, promoting the growth of vocational employment training options, and improving the quality of life of the disabled.

Persons with disabilities have routinely experienced difficulty in obtaining and keeping a job even during times of economic boom and low unemployment. A subset of the disabled population which has historically and even currently faired worse among disability groups are the psychiatrically disabled, - the long term mentally ill. The general population is more inclined to be benevolent to certain disability groups than others. The mentally ill is by and large "not liked as a disability group". The mentally ill experience high stigma, are scapegoated, and are misunderstood. There is no wonder that the mentally ill have routinely experienced greater difficulty in the vocational and employment areas. Review of the literature conducted by the Center for Rehabilitation Research and Training in Mental Health in Boston, indicated historical employment rates of 20 to 30% of the mentally ill employed full time. More recent review by the same group suggests 10 - 20% employment rates with closer to 0% employment for the more severely mentally ill targeted for deinstitutionalization. In addition to high unemployment rates among the disabled, and even higher unemployment rates among the long term mentally ill, disability groups have experienced lower wage rates, less promotional opportunities, and because they are usually the last hired are the first laid off when the economy or business suffers.

Our experience supported by the research clearly indicated that despite the value placed on work in America, that despite the importance of work in earning a living, increasing self-respect adding to an identity, keeping occupied, and providing social outlet, work and work-like activites for disabled and especially for the long term mentally ill is generally not within reach.

Although an individual's disability is in and of itself a major barrier to employment, there continues to exist a number of "institutional" barriers and disincentives to employment. The Employment Opportunities for Disabled Americans Act is intended to address the disincentives of the possible and actual loss of income and medical benefits for disabled individuals who work despite severe medical impairment. This is a good first step.

I would like to document for you how Section 1619 of the Social Security Act has helped the mentally ill, in our experience, and how passage of Senate Bill 2209 would improve and help promote employment. The eight community mental health centers in Rhode Island provide treatment, rehabilitation, housing, medication, and case management services to over 4,000 chronically mentally ill. In a recently published Nader report, Rhode Island was listed as the second state in the nation (next to Wisconsin) with the best community based mental health system of care. Despite our high ranking, continued attention and efforts have to be given to developing a variety of full-time and part-time employment options for our clients. At the Community Counseling Center, which serves the catchment area of the cities of Pawtucket and Central Falls, we provide services to approximately 450 long term mentally ill adults. Of this number, approximately 15% are employed full time. A significant number of our clients have multiple medical problems in addition to their psychiatric disability. Many have coronary problems, respiratory diseases, epilepsy, borderline retardation, substance abuse, and visual impairment. The Community Counseling Center has been fairly successful in providing vocational employment for the mentally ill. We have recently formed a subdivision corporation to train and employ the mentally ill in the food preparation area and service industry. This has been made possible through Division of Mental Health, Vocational Rehabiliation, and Job Training Partnership Act funds. In looking at the impact Section 1619 has and will have on the mentally ill, I'd like to focus on two generally distinct sub-groups of the mentally disabled: the young adult chronic and the older deinstitutionalized adult.

The young adult chronic is the emerging, heterogeneous group of mentally ill adults which has received considerable attention and press in the past few years. This group can best be defined as consisting of psychiatrically disabled individuals between the ages of eighteen and thirty-five, who lack social and vocation skills, experience sporadic and erratic work history, are non-compliant with treatment, are aggressive and energetic, have multiple and frequent short-term hospitalizations, frequently use drugs and other substances, and are by-and-large a difficult-to-treat-and- reach group of clients who defy many of the conventional methods of treatment and rehabilitation. This group is the new non-institutionalized mentally ill that challenge mental health care providers. Twenty years ago the state institution would most probably have been the treatment of choice. Because this group of people does not accept the label of "patient" or consider themselves as "disabled", we have been able to reach many and engage them in treatment through the use of vocational and employment programs. Let me give you an example of how Section 1619 has helped us pro-vide employment for two young, mentally ill adults who otherwise be unemployed and untreated.

Tony is a young man in his mid twenties living in our commu-nity. He is a SSI recipient and has had a number of psychotic breaks requiring inpatient care. About three years ago he was hospitalized on five separate occasions. He lost faith in the mental health system and in himself. About two years ago, with the help of our job placement program, Tony began working part time as a janitor. During his nine month trial work period, Tony complied with his medication requirements and attended counseling and treatment programs. Tony continued to work part time and with advocacy from his case manager was declared eligible for continued benefits under 1619 parts A & B. Tony's part-time position became full time last year. He continued to receive medical benefits (under 1619) during the six month waiting period before being enrolled in the employer's Blue Cross/Blue Shield plan. Tony pre-sently works full time, drives a car, and is beginning to train others in janitorial maintenance duties at his place of employment. He is entrusted with keys to the plant and routinely makes bank deposits. Tony has not been hospitalized for the past two years, ever since he became employed and compliant with treatment. Without 1619, Tony would not have been able to continue working. Without Medicaid benefits he could not have afforded his expensive medi-cation and biweekly lab workups. Without the provisions of 1619, Tony would not be working today and probably would continue to go in and out of psychiatric hospitals.

Dave's case is very similar. He is a young man in his early twenties who was in and out of institutions as a child. He has severe emotional and intellectual problems including a seizure disorder. David became employed as a dishwasher over a year ago working 15 hours a week. Again, after advocacy from our Casework Team, the Social Security office authorized Section 1619 applica-tion for David. David's maximum capability is part-time employment. He likes his job and finds it rewarding. David continues to work and to receive Medicaid benefits. He also receives his SSI check, with only a small deduction. Section 1619 has provided the incen-tive necessary for David to keep working. David has moved into his own apartment which is partially subsidized by his family. He has not been hospitalized since he began working. David would not be functioning at the level he is today without the provisions of Section 1619.

The continuation of medical benefits is a major incentive to employment for the mentally ill, as it is for any disability group. Because an individual's disability requires frequent and ongoing medical attention, including taking two or three different types of medication and periodic lab work, individuals with psychiatric disabilities will frequently defer fraom any kind of employment instead of running the risk of losing medical benefits. It is our opinion that the continuation of medical benefits is the biggest incentive to helping the mentally ill becoming employed.

Our clients received the benefits provided by Section 1619 only after we initiated the request and continued to advocate. Although absolutely no criticism is implied, the front-line staff in the Social Security office were not familiar with 1619, and many handicapped groups and providers are totally unaware of this provision. Although unintended, it has become a "well kept secret". Social Security staff have always been very cooperative, but I assume that their attention is diverted to digesting numerous and complicated social security regulations and changes instead of promoting the provisions of this program.

From what I understand, The Employment Opportunities for Disabled Americans Act would require that the Social Security recipients be notified of their potential eligibility for benefits under Section 1619. This will begin to address this problem.

Besides the young adult chronically mentally ill, another predominant heterogenious group of individuals treated at our facility is the older deinstitutionalized adult. This person is over forty years old, usually well over fifty, and has had one or two psychiatric hospitalizations lasting either ten, twenty, or thirty years. This person has learned to adapt to an institution and has taken on those traits characteristic of institutionalization. The mentally ill in this group tend to be withdrawn and more passive than the young adult chronically mentally ill and usually have numerous medical problems, many as a result of poor care in the institution or the secondary effects of years of high doses of neuroleptics. For the most part, clients in this category comply with treatment but are not willing to risk the possibility or actual loss of income or benefits by attempting to work. For the past three years not one client in this group was willing to take this risk. Many older, deinstitutionalized adults prefer to spend their time in our day program and/or volunteer their services in the community. We found that the incentives for employment provided by 1619 are generally not taken advantage of by the older disabled client. Again, notification of eligibility would be a start in helping the psychiatrically disabled adults try to work.

Earlier, I referred to the problem of the mentally ill as the least favored disability and highly stigmatized disability group. The mentally ill have historically been at a disadvantage in "proving" the disability or inability to work. With no overt visable manifestation of a handicap, the mentally ill, I believe, will continue to have difficulty "proving" their eligibility for the provisions of Section 1619; ie., that they are able to work despite severe medical impairment. If a mentally ill person is working, then the assumption is that the handicapping condition is no longer present. There will continue to be a fine line between a mentally ill person being disabled enough to require assistance and not disabled enough to work. I would urge that the general accounting office study this provision and examine the impact of 1619 on providing a work incentive for the mentally ill. I believe that in addition to making Section 1619 a permanent part of the Social Security Act, the Social Security administration should consider increasing the Substantial Gainful Activity (SGA) from the present level of $300 gross earnings per month. Since 1980, there has been no increase in this level for the disabled but not blind, while there has been a 50% increase for the SGA level for the blind, to the present level of $610 per month. Any number of reasonable tests can easily determine that $300 per month of gross wages cannot constitute substantial gainful employment in this present day. Increasing this level would provide incentives for the disabled to seek and maintain part-time employment.

Another provision of this bill that I feel is important for the mentally ill is the authorization of up to sixty days of SSI benefits for those individuals who are admitted to a state hospital. This will enable the mentally ill to continue rent payments for community living arrangements and thus ease their return to the community.

The care and rehabilitation of disabled individuals, especially the long term mentally ill, should be seen as a partnership between federal, state, and the local community. In the past few years, there has been an appropriate shift in the primary responsibility for this care to the state and local levels. The State of Rhode Island, I believe, has been able to meet this increased challenge with the implementation of effective community based programs. I believe we have a long way to go. Yet, one of the many roles of the federal government should be to promote programs of communization and to provide individuals with incentives for independent living. I strongly urge you to favorably consider passage of Senate Bill 2209 "The Employment Opportunities for Disabled Americans Act". I thank you for the privilege and honor of speaking before you today.

STATEMENT OF PATRICK BABCOCK, DIRECTOR, MICHIGAN DEPARTMENT OF MENTAL HEALTH, LANSING, MI

Mr. Babcock. Thank you, Mr. Chairman.

I am Patrick Babcock, and I am the director of the Michigan Department of Mental Health. And with me is Marilyn Walden, who is the Chair of the Michigan Interagency Task Force on Disability. That task force recently issued a paper which we submitted to your staff, entitled "Work the Real Social Security," which points out a number of areas which a coalition of public agencies and private agencies in Michigan are advocating for clausing provisions in the SSI law and also, to some degree, in the Social Security Act for SSDI to remove some of the barriers to employment that handicapped people face.

I will not go into some of the issues that have already been discussed. I certainly share the comments of both of my colleagues on the panel today about the importance of this legislation as it relates to the chronically mentally ill and the severely undeveloped disabled as well as other disabled people.

Mr. Chairman, as we have looked at the legislation in place today, the current statute, we find legislation that clearly has good intent and clearly is progressive. It moves toward the goal of reintegrating disabled people in the work force and providing them opportunities.

It is also legislation that is marked all too often by confusion, by complexity, by a lack of knowledge on the part of recipients, and by the lack of security on the part of the recipients.

S. 2209 goes a long way to solving those problems, and we strongly support its passage. However, we would like to point out some other key amendments which we realize are not within the scope of S. 2209, but that we think should be considered either now or in the near future as the Congress continues to look at this question.

Obviously, the extension of sections 1619 (a) and (b) and making those permanent parts of the law are critical. If nothing else, if S. 2209 were passed, and that happened, we would go a long way toward removing some of the insecurity that many disabled people face. A phenomena of all or nothing as they take the risk of entering the work force or reentering the work force.

We would also like to see, however, an amendment which would trigger 1619(a) if the person had been eligible to receive a regular SSI payment or a special benefit in any one of the prior 12 months in order to particularly provide services to the chronically mentally ill person who may be in and out of hospitals or in and out of a residential program as they deal with the acuteness of their mental illness, or the acute phases.

We are particularly interested in trying to see some changes in the extended period of eligibility in order to try to remove a barrier for severely disabled people by extending the EPE provision of the law on an indefinite basis, for people who are severely disabled. This would provide that as people take the risk of again going to work, there would be automatic reinstatement, assuming their medical disability continues, should they have an unsuccessful experience in the work force.

We would also recommend that the EPE be extended for individuals who may have exhausted their trial work period before the passage in 1980 of 1619(a), and therefore are ineligible for that provision.

And, finally, we would support the provision in S. 2209 which provides for 2 months hospitalization during the time of EPE, but would support and recommend an amendment for the chronically mentally ill person; that this provision be liberalized in order to provide for multiple hospitalizations or for at least 60 days of cumulate hospitalization within the course of 1 year.

As we experiment with more intensive community-based services for severely mentally ill people who are recovering, we see the need for very short-term periods of hospitalization, but also see with the added support in the community individuals who can and are independent, who can lead productive lives and can participate in the work force, even though they may need to reenter an inpatient system more than the current amendment would permit.

Concerning the area of utilization, Mr. Chairman, it was encouraging to hear the Commissioner's comments based on the report that was just issued. Clearly, 1619 (a) and (b) is growing in its applicability. Yet, in looking at the data, one would determine that that program still is very underutilized; that far too few people are taking advantage of the program, and all too often that may be because of the temporary nature of the program, but also it may be because of lack of assistance to access it or lack of knowledge.

We would recommend that the language in section 4 of S. 2209, which provides that Social Security offices that have sufficient staff should have specialized staff assistance to help people access 1619(a) be strengthened by making it a clear mandate that every Social Security office, regardless of size, have a staff person who is trained, and knowledgeable and available to assist applicants for 1619(a) and 1619(b).

A number of people have touched on the substantial gainful activity issue, and we also share concerns in that area.

We have attached to our written testimony a chart which tracks the SGA levels over the years in comparison to the minimum wage and comparison to the Federal SSI benefits for levels for single persons in own households and in comparison to the Federal poverty level.

It is noteworthy that for the first 8 years SGA was higher than the Federal benefit level, and for 1975 to 1979, it was on general parity with the Federal poverty level. However, since 1980, it has lagged behind both of those levels, and now we find that the SGA of $300 per month is an artificially low measure, of one's ability to perform substantial gainful activity.

We would join the other individuals in recommending congressional action to adjust the SGA so that it would have parity with the SSDI, SGA for blind individuals, and that in all cases it would be reflective of at least a basic humane level of subsistence.

Another area, Mr. Chairman, that we see needs a policy attention by the Congress, is the issue of individuals who are receiving both SSI and SSDI. The fact that the programs are not coordinate, and the individual on SSDI operates at a disincentive as far as reentering the labor market and not facing a premature loss of benefits.

We realize that our testimony on S. 2209 goes beyond the scope of that bill. If again the bill were to be passed as it stands today, we, in Michigan, would applaud the Congress. But we would also urge that the Senate Finance Committee and the appropriate committee in the House take a very hard look at the wide range of the disincentives and incentives in the current law and under current practice.

I think that the practices are confusing to populations who are disabled. They are certainly confusing to professionals who administer the act and those of us in the State agencies who try to encourage individuals to participate in the act. With some streamlining, there is no question that not only will we achieve an objective of reducing Federal outlays for disability but, more importantly, we will be able to extend a humane approach to many disabled people in our country who want to and have a right to enter the world of work, and participate to the extent of their abilities as members of the work force and as taxpayers.

Thank you.

Senator ARMSTRONG. Thank you very much.

Miss Walden, did you have something to add to what Mr. Babcock has said?

[The prepared written statement of Ms. Babcock follows:]

STATE OF MICHIGAN

JAMES J. BLANCHARD, Governor

DEPARTMENT OF MENTAL HEALTH
LEWIS CASS BUILDING
LANSING, MICHIGAN 48926
C. PATRICK BABCOCK
Director

TESTIMONY OF

C. PATRICK BABCOCK
DIRECTOR, MICHIGAN DEPARTMENT OF MENTAL HEALTH

Before the

SENATE FINANCE COMMITTEE'S
SUBCOMMITTEE ON SOCIAL SECURITY AND INCOME MAINTENANCE

AND

SENATE LABOR AND HUMAN RESOURCES COMMITTEE'S
SUBCOMMITTEE ON EMPLOYMENT AND PRODUCTIVITY

Hearings on
"Employment Opportunities for Disabled Americans Act"
S. 2209

July 30, 1986

My name is C. Patrick Babcock and I am currently Director of the Michigan Department of Mental Health . I am accompanied by Marilyn Walden, Director of Federal Entitlements for the Department of Mental Health and Chair of the Michigan Interagency Task Force on Disability.

I appreciate the opportunity to be here today and to voice strong support for S. 2209, the Employment Opportunities for Disabled Americans Act. I commend the sponsors of this legislation and its companion bill HR 4450 for their leadership. My comments are based on the research of the Michigan Interagency Task Force, an active coalition of persons representing the major state departments and advocacy organizations within the state which provide services to persons with handicapping conditions.

It is encouraging to see a growing recognition that being disabled does not necessarily mean that one is unable to work. The intent of the 1980 and 1984 Social Security Amendments, both of which include work incentive provisions, is admirable. Unfortunately, however, the system is still flawed, due largely to confusion, complexity, and lack of knowledge, resulting in insufficient utilization of the work incentive provisions and failure to benefit the persons for whom the work incentives were intended. The program has become a record of good intent, but limited usefulness for disabled citizens who want to work. I suggest that we need to focus on an overall goal which will remove barriers to employment, and which will result in a system that is easy to understand, easy to use and which provides real incentives. S. 2209 creates a vehicle for such improvements.

Michigan's Interagency Task Force has produced a paper entitled "Work: The Real Social Security," furnished for your reference, which describes available work incentives within the SSI program and suggests additional modifications which will facilitate entry into the work force for disabled persons. Many of the recommendations contained in that paper could be accomplished by passage of S. 2209, with minor modifications. I encourage careful consideration of these proposed amendments as the bills us move through the legislative process. May I draw your attention to some of the key points.

RECOMMENDATION: SECTION 1619a AND b PROVISIONS

Section 1619(a) and 1619(b) should be made permanent provisions of the law. Section 2 of S. 2209 would accomplish this and is strongly supported. I do recommend an amendment which would trigger 1619(a) if the person had been eligible to receive a regular SSI payment or a special benefit in any one of the prior 12 months.

RECOMMENDATION: EXTENDED PERIOD OF ELIGIBILITY

The duration of the Extended Period of Eligibility (EPE) in the SSI program should be extended for those severely disabled persons who have had no significant work histories before their determination of eligibility. The EPE should be made indefinite, so that severely disabled persons who are working despite their impairments can be automatically reinstated the month after their income drops below the substantial gainful activity (SGA) level.

Section 4(c) of S. 2209 which deals with individuals who receive income of an unusual and infrequent nature could accomplish this with minor modifications. I support this section and suggest a clarification which assures the automatic re-entitlement of persons who have no significant prior work history, but who experience an unexpected loss of income due to periods of illness or other circumstances beyond their control. I also recommend an additional provision to include persons whose trial work periods were exhausted before the 1980 amendments took effect, and therefore cannot benefit from either the extended period of eligibility or the 1619 provisions.

Section 3 deals with maintaining eligibility for up to two months during a two year period for persons who are hospitalized in a public institution. This concept is strongly endorsed. I suggest that this is not sufficient for persons with mental illness, however, and recommend that this section be modified to either allow for multiple short term hospitalizations or at the minimum allow for up to two months during a one year period.

RECOMMENDATION: UTILIZATION OF WORK INCENTIVES

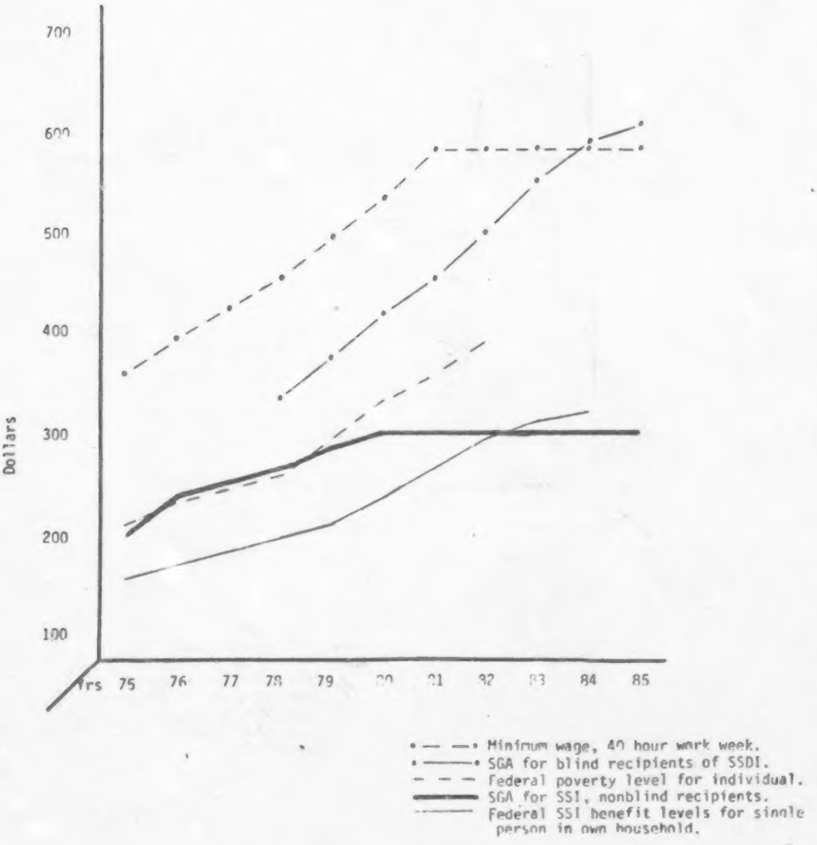
The Social Security Administration should continue to place a high priority on the use of work incentives, encouraging local district offices to aggressively implement the various provisions. SSA should periodically track indicators and use of the provisions and continue to work collaboratively with agencies at the federal, state, and local levels providing information about work incentives.

Several sections of S. 2209 deal with these issues, and all are endorsed. I would suggest that Section 4 be amended to require all SSA offices, regardless of size, to have a staff person knowledgeable in the 1619 provisions. It is clear that lack of knowledgeable SSA staff has contributed significantly to the fact that by 1984, nationally only 406 persons were benefiting from 1619(a) and 6,804 were participating in 1619(b). Additionally I recommend that Section 6 be amended to include analysis of persons who are terminated from benefits due to SGA and were therefore precluded from using the 1619 provisions. As currently stated, Section 6 would only study those who have used 1619.

A major deficiency in the Employment Opportunities for Disabled Americans Act is that it does not deal with modifications to SGA. The monthly earnings figure which establishes SGA was originally intended to reflect monthly earnings at a level consistent with national earning levels and related to self-sufficiency. Congress gave SSA the authority to modify SGA. For the first eight years of the SSI program, SGA was higher than the federal benefit level for an individual. From 1975 to 1979, SGA and the official poverty level were nearly equivalent. However in 1980, SGA was set at $300 and has not been increased since. Compared to any test of self-sufficiency, such as minimum wage or other standards that are related to the Consumer Price Index, the current level of SGA is unrealistically low. Since the concept of SGA is central to the consideration of eligibility for SSI, its dollar equivalence must be addressed.

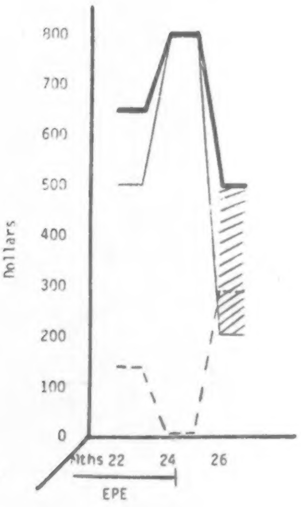
The following graphic display illustrates clearly the discrepancy between the current amount designating SGA for nonblind persons and other common measures of self-sufficiency.

SGA FOR SSI NON-BLIND RECIPIENTS,
COMPARED WITH FOUR OTHER STANDARDS RELATED TO
SELF-SUFFICIENCY



To further illustrate, note the following chart which shows the affects of SGA on earnings of two fictitious working recipients. "Samantha" is blind; "Sam" is not. Sam can only earn up to $300 per month before losing eligibility. Samantha can earn up to $610 per month without jeopardizing her eligibility.

SAMANTHA AND SAM GO TO WORK
SAMANTHA IS BLIND; SAM IS NON-BLIND



--SGA for Samantha who is blind. She earns $500 per month but could earn $609 and still remain eligible.

--SGA for Sam who is nonblind. He earns $200 per month but could earn only $299 and remain eligible.

Key:

—— Earnings.
– – SSI benefits (1985 levels).
━━ Total available income.
▨ The available income of Samantha, who is blind, compared to Sam, who is nonblind, after EPE ends (month 24).

I urge that Congress take legislative action to ensure that the SGA level for sighted disabled SSI beneficiaries be keyed to the same index as that of the blind disabled beneficiaries, and that SGA be reflective of at least a basic, humane level of subsistence.

One final issue is now surfacing which I encourage you to consider. Many SSI recipients are concurrent SSDI recipients. Due to both law and regulation, these persons are unable to benefit from the work incentives in the same way as persons receiving only SSI benefits. The result is that two groups of persons who have the same disabilities, and may be working side-by-side, are treated differently with regard to work incentives. I urge that these inequities be corrected by assuring equal participation in the work incentive provisions for these two groups of persons.

I applaud the leadership represented by this legislation and encourage continued focus on simplifying the process and enabling more persons to work and become as self-sufficient as possible. I ask that these recommendations be accepted by the committee.

Thank you. I will now accept your questions.

STATEMENT OF MARILYN WALDEN, DIRECTOR OF FEDERAL ENTITLEMENTS FOR THE DEPARTMENT OF MENTAL HEALTH, AND CHAIR OF THE MICHIGAN INTERAGENCY TASK FORCE ON DISABILITY

Ms. **WALDEN**. Only to express appreciation for the opportunity to be here today.

We are especially interested in these issues, and would certainly be more than happy to lend any assistance, technical assistance, or whatever, that might be of benefit.

Senator **ARMSTRONG**. We thank you very much.

Senator Moynihan.

Senator **MOYNIHAN**. Thank you, Mr. Chairman.

Just a quick question. Did I take it that Miss Hardy said that they are going to have a panel to review this substantial gainful activity question?

Senator **ARMSTRONG**. That is my understanding.

Senator **MOYNIHAN**. Because it is very clear, especially, I guess, for Mr. Babcock. They have a chart here.

Mr. Beitz, you say that we have a technical problem that requires us to insert blind persons wherever there is a reference to disabled persons. I think our staff, Mr. Chairman, can check that out. We could just do it.

And then just one large question. One of you said—was it Mr. Leclerc—that only 4.7 percent of the people receiving SSI benefits are working? Was that you, Mr. Leclerc?

Mr. **BEITZ**. Generating income.

Senator **MOYNIHAN**. Generating income. That is much too low, isn't it? I am not saying your number is right, but that is much too low.

If I can say, Mr. Chairman, I drafted the Presidential message that proposed this program, and it was meant to involve children as well. And after 3 years of storm, everything was passed except the provision for children, which is typical of our arrangements these days.

You would mostly assume that given some attention and effort, blind persons would be employed. Isn't that right? I would ask the panel.

Mr. **BEITZ**. Yes, sir.

Senator **MOYNIHAN**. Blind persons are employable people. They have a disability and they make up for it with abilities that other people do not have.

Mr. **BABCOCK**. Well, certainly, Senator, in my experience as a former labor director in Michigan, where we had jurisdiction over the commission for the blind, if the only handicap was blindness, you are correct. And, in fact, the vast majority of blind people or hearing-impaired people are extremely employable.

Senator **MOYNIHAN**. Yes. As a matter of fact, one of the persons who did much of the technical work drafting this particular legislation in 1969 was blind. And it is an inhibiting factor. It is hardly a disabling one. What is the problem here? And a great many disabled persons where the disability is just physical really just need some sheltered workshop or so. When you get into the range of mental difficulty, such as some that you decide are having a problem, we are not doing a very good job here, are we?

Mr. **Babcock**. Senator, we are not doing a very good job because we have tended to not think beyond the sheltered workshop or the traditional levels of services.

On Monday of this week, I was at a suburban Detroit airport with two severely, profoundly retarded individuals, both of whom had spent years in institutions, and was observing them washing and waxing airplanes. And this does not sound very technical until you start to work around antennae and the various equipment on the planes. Both of those individuals are earning minimum wage—one more than minimum wage—and we have created what we call an enclave, and have an onsite supervisor. Both have resulted in diminishing that specialized supervision over the last 3 months.

That experience and that reflects, as the other gentlemen have indicated, just two people. But they represent thousands of people. Five years ago we never would have thought they could participate in work because of their disabilities. And they are doing very well. That story is repeated all over Michigan and all over the other parts of the country.

Senator **Moynihan**. Mr. Leclerc.

Mr. **Leclerc**. If I may partially at least try and respond to your concern, Senator Moynihan.

I think in the past 10 years or so State programs have been preoccupied with deinstitutionalization. An institution provided shelter, food, some sort of work opportunity and some social opportunity. The emphasis has been placed on providing food and shelter in the community and some sort of day activities.

Vocational opportunities, employment opportunities for mentally handicapped individuals, tend to lag behind because we are dealing with a population that had originally been institutionalized.

Right now, we are finding ourselves at the point of saying, if we did everything right, and get everyone out of the hospital who needs to be out of the hospital, and provide them with food and shelter and stabilization, and try to reverse the effects of institutionalization, we would find ourselves with a huge number of people ready for some sort of work activity, but incapable of providing that because our system has not yet caught up with that. So we need to be addressing that. And I think that is one of the benefits of this particular bill.

Senator **Moynihan**. If I could say, Mr. Chairman, a thing to note. There was a period there when there was a lot of talk about the disability rolls and the SSI rolls just booming, as if it were some new form of dependency, and it is not so. The SSI rolls have been stable for a decade. Now they have built up in a few years after the legislation was passed in 1972 and they have leveled off at 4 million-plus as the population grows and so does disability.

But I certainly think we can weight that SGA. We probably should not do anything on the floor. But maybe we can have some hearings sometime—and the sooner the better, from my point of view—and find out why aren't we finding work? You know, this is not a new subject. Sheltered workshops are a century old. Right? They are an innovation of the early 20th century at a minimum.

We are not going to get a lot of initiative out of the Federal Government, although don't preclude that possibility. Is there something that we are doing that is not helping?

I like your aircraft example because one of the things you know you cannot avoid as we move into more advanced technology, even industrialization, that the preindustrial world had plenty of work for persons with a very low IQ. I mean there was just plenty of work for which, in some respects, they had an advantage. Things that would drive other people crazy, they could do quietly and competitively and well.

And they are doubly disadvantaged when things get at least normally more complex than they are capable of handling. So when you find something that they do do, that is important.

But, gosh, that movement of yours is an old and well established one in our country. And no State that doesn't have agencies such as these persons you are capably representing, you see Mr. Beitz' testimony. My goodness, there are, what, 30 agencies there who are representing. I believe we might look into this, Mr. Chairman, if you have a moment. I know we are all supposed to be in too many places at once, but this is something I cannot imagine in 10 years—I have been on this committee for 10 years and we have never inquired into the work experience of persons on either the disability insurance or the SSI.

The disability insurance is a program of the Eisenhower administration and SSI the Nixon administration. And they should give a little oversight. That is what we are supposed to do as well. But otherwise, thank you very much, gentlemen.

If you have any thoughts on that, would you just like to drop a note to the committee? I am sure that is something you think about.

Senator ARMSTRONG. A good idea. Thank you, Senator Moynihan. I thank all the witnesses.

Two Senators who are interested in this legislation, and indeed are cosponsors of S. 2209, are unable to be with us this afternoon, and I would like to submit for the record the statements of Senator Domenici and Senator Mitchell. And again, with thanks to all witnesses and staff, we are adjourned.

[Whereupon, at 3:09 p.m., the hearing was concluded.]

[The prepared written statement of Senator Domenici follows:]

[By direction of the chairman, the following communications were made a part of the hearing record:]

STATEMENT OF SENATOR PETE V. DOMENICI
HEARING ON S. 2209, "EMPLOYMENT OPPORTUNITIES FOR DISABLED AMERICANS ACT"
JULY 30, 1986

Mr. Chairman, when the distinguished Majority Leader, Mr. Dole, and I introduced S. 2209, "The Employment Opportunities for Disabled Americans Act," we hoped to alleviate some of the disincentives that currently exist for severely disabled Americans to hold a job and make the maximum use of their abilities. I want to commend the distinguished Majority Leader for his untiring efforts in this area. I also would like to thank you, Mr. Chairman, and your subcommittee for your work in putting together these hearings. Finally, I want to recognize the efforts of the National Alliance for the Mentally Ill in continually working to improve this bill so that it could be as effective as possible in helping disabled Americans.

Most of us go to work everyday without thinking about it too much. We take it for granted that we can drive our cars, walk, or take the metro to our place of employment. We greet friends and business associates during the day and generally come home with a feeling of satisfaction from a job well done. Work provides us with a sense of accomplishment, achievement, and identity. Its such an important part of our lives that one of the first things we ask on meeting someone is "What do you do for a living?" This helps us to identify that person.

For the severely disabled, having a job is not something to be taken for granted. The trip to and from the office is a major undertaking for someone who is blind or in a wheelchair. Meeting and talking with people is not a trivial task for someone with a mental illness. These simple tasks which most of us do automatically are major achievements for the severely disabled. Imagine then the kind of satisfaction they must feel each and every day that they are able to go to work and contribute to the well being of themselves and their families. Work and the contribution that it allows the worker to provide to society is enormously therapeutic for all of us.

Unfortunately some of our existing laws create barriers for disabled people who would like to go to work. Currently a disabled person who is obtaining Supplemental Security Income, SSI, payments faces the loss of this income if he or she takes a job or is institutionalized for more than 30 days. What is even worse for individuals who need continual medical assistance is facing the loss of their Medicaid benefits if they take a job. The jobs which most of them obtain have little if any medical coverage; and faced with the loss of what little coverage they have under Medicaid, the severely disabled person will reluctantly forgo taking a job so that they can continue to receive Medicaid benefits.

This bill eliminates some of these barriers and replaces them with incentives for disabled people to get a job. It does this by making several changes to section 1619, "Benefits for Individuals who Perform Substantial Gainful Activity Despite Severe Medical Impairment", of the Social Security Act. These changes have been temporarily enacted for the last six years, and this bill will make them a permanent part of the law. Making these provisions permanent will guarantee that severely disabled people who are receiving SSI payments will continue receiving these payments until they meet the SSI break even criteria for their state. The bill also continues their Medicaid eligibility indefinitely even if they get a job.

In order to prevent disabled people from joining the ranks of the increasing numbers of homeless, this bill further provides that SSI payments will be continued throughout a 60 day institutionalization. This provision is particularly helpful to the severely mentally disabled who have multiple institutionalizations throughout the course of their illness. Without this provision of continuing SSI payments during their institutional stay, the severely mentally disabled may not be able to continue paying rent and will therefore lose their homes. I would like to have included in the record a letter from the American Psychiatric Association on this issue.

For all the good that it can do this is not an expensive piece of legislation. The federal costs for 1987 would be one million dollars. Over the five years from 1987 until 1991, the highest cost for any year would be thirteen million dollars. In my own state of New Mexico the changes in law which this bill make permanent have allowed 33 severely disabled New Mexicans to obtain and hold jobs.

I feel so strongly about the need for this legislation that even though New Mexico will have the full benefit of S. 2209 as it stands, I have introduced an amendment to extend the coverage of this bill to 14 states which currently cannot obtain its full benefits. To be eligible for the incentives of S. 2209, a person must be receiving Supplemental Security Income, be eligible for Medicaid, and qualify under section 1619 of the Social Security Act. In all but 14 states, receiving SSI benefits automatically makes a person eligible for Medicaid benefits and S. 2209 can have its full effect. In the states of Connecticut, Hawaii, Illinois, Indiana, Minnesota, Mississippi, Nebraska, New Hampshire, North Dakota, North Carolina, Ohio, Oklahoma, Utah, and Virginia, however, this coverage is not automatic. To correct this situation I have introduced an amendment to S. 2209 which will make SSI recipients who have jobs lined up and who qualify under section 1619, automatically eligible for Medicaid benefits in these states. In many cases this simply brings federal law into line with state practice since individuals on SSI frequently receive Medicaid in these states although it is not automatic.

This bill will not solve all of the problems that currently exist in our programs for the severely disabled. It will, however, provide much needed leadership from the congress. By implementing the provisions of this bill, we indicate that we are willing to try new ways of helping severely disabled Americans become productive citizens.

Thank you Mr. Chairman.

American
Psychiatric
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July 7, 1986

The Honorable Peter V. Domenici
United States Senate
434 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Domenici:

The American Psychiatric Association would like to go on record in support of the employment opportunities for Disabled Americans Act (S. 2209), which you cosponsored. The bill serves as landmark legislation for the meaning of disability in federal programs. We are pleased that the act removes disincentives to work in the Supplemental Security Income program (SSI), and begins to correct a fundamental flaw in disability program language. The Act moves toward the more realistic assumption that many people fall somewhere in-between the two extremes of being so disabled that they cannot work at all or being capable of fully supporting themselves.

We applaud the goal of making Section 1619 of the Social Security Act permanent and the proposed improvements in its administrative portions. We are in favor of the requirement that SSA designate specialists in Section 1619 issues in each district office, in order to better inform and notify potential recipients of the program. In addition, by authorizing SSI benefits to recipients for 60 days even after admission to a state hospital, these applicable individuals will most likely be able to maintain their residences in the community, and subsequently return to the community with more ease. This section truly represents the concept that individuals, who may need hospitalization, also need transition time to return to their communities. Inclusion in the Act of the ability of individuals to retain their SSI eligibility as they work, even when they receive unusual income (such as an inheritance), maintains continuity of benefits.

As you deliberate this bill, we have only one concern, there are 14 states where Section 1619 cannot work well, because SSI recipients do not necessarily receive Medicaid. We hope you will address this issue.

We are grateful for, and applaud your efforts in this area, and we look forward to the creative demonstration projects which the Social Security Administration will begin after the act is passed. Please let us know how we can help you.

Sincerely,

Melvin Sabshin

Melvin Sabshin, M.D.
Medical Director

MS/JBC/ES/jdc

STATEMENT OF THE

AMERICAN COUNCIL OF THE BLIND

BY ORAL O. MILLER, NATIONAL REPRESENTATIVE

BEFORE THE

SUBCOMMITTEE ON SOCIAL SECURITY AND

INCOME MAINTENANCE PROGRAMS

OF THE COMMITTEE ON FINANCE

U.S. SENATE
99TH CONGRESS
2ND SESSION
JULY 30, 1986

REGARDING

THE EMPLOYMENT OPPORTUNITIES FOR DISABLED
AMERICANS ACT

STATEMENT OF THE AMERICAN COUNCIL OF THE BLIND

THE EMPLOYMENT OPPORTUNITIES FOR DISABLED AMERICANS ACT

Mr. Chairman: The American Council of the Blind appreciates this opportunity to testify concerning the Employment Opportunities for Disabled Americans Act. The American Council of the Blind is the nation's largest membership organization of blind and visually impaired people. As such, we are vitally concerned with the programs and legislation which impact on our thousands of members. The Employment Opportunities for Disabled Americans Act is such a bill, and I am here today to speak on behalf of our membership.

There are two major points we would like to make with regard to S. 2209, summarized as follows:

1) Action is needed now to make permanent and improve the provisions of Section 1619 of the Social Security Act.

2) The Employment Opportunities for Disabled Americans Act applies only to recipients of SSI who are disabled, but not to recipients who are blind. Specific language is needed to include blind persons within the scope of the Act.

For the past twenty-five years, the American Council of the Blind has worked to improve the lives of this country's blind and visually impaired citizens, through legislation, legal advocacy and public education. Our members come from all walks of life and reside in all parts of the country. Some of the Council's members own businesses; others are employed in a variety of occupations. Unfortunately, however, many of our members are severely underemployed or unemployed, subsisting on SSI, SSDI and other government programs. Whatever the status, one thing is certain; disabled individuals face major disincentives to employment which need to be addressed through legislation.

I. ACTION IS NEEDED NOW

Section 1619 of the Social Security Act is a provision which was originally created to assure disabled and blind SSI recipients continued access to Medicaid benefits in the event of employment. Unfortunately, the Section 1619 program was granted temporary status only, and thus became a disincentive to employment to many blind and disabled persons. When given the option of remaining unemployed with health care coverage or being employed but possibly not covered by health insurance, it is not surprising that many individuals simply chose not to work because of their medical needs. Immediate action is required to remove the disincentives to employment which were created when Section 1619 was not made a permanent provision of the Social Security Act.

II. SPECIFIC LANGUAGE IS NEEDED TO INCLUDE BLIND PEOPLE IN THE ACT

The American Council of the Blind strongly supports S. 2209, with the suggested modification which would include blind people within the scope of the Act. Under Title XVI programs, it is necessary to specifically refer to "blind persons" whenever a reference is made to "disabled persons". If this is not done, blind people will not be covered. The words "and blind" must be inserted after the word "disabled" in every section of S. 2209 which relates to Title XVI programs. We believe this was an inadvertant error and would like to see it corrected.

The American Council of the Blind urges this Subcommittee to consider our suggestions and quickly approve the "Employment opportunities for Disabled Americans Act". Thank you for allowing us to share our views with you today.

STATE OF MICHIGAN
OFFICE OF THE GOVERNOR
LANSING

JAMES J. BLANCHARD
GOVERNOR

January 22, 1986

Dear Senator or Congressman:

I am pleased to share with you the recent report of the Michigan Interagency Task Force on Disability (MITFD) entitled "Work: The Real Social Security". This report analyzes and proposes recommendations to improve the work incentives in the Supplemental Security Income (SSI) program for persons with ongoing disabilities who receive benefits and wish to work.

I urge that these recommendations be given careful attention as you consider legislative and policy action for this program.

In addition, I ask that you share this report with Congressional members in other states who are also interested in improving the work incentives and removing the work disincentives for severely disabled persons.

If you need more information or additional copies of the report, please contact Marilyn Walden, Chair of the MITFD, at (517) 373-2741.

Sincerely,

James J. Blanchard

James J. Blanchard
Governor

WORK: THE REAL SOCIAL SECURITY

SUPPLEMENTAL SECURITY INCOME WORK INCENTIVES AND DISINCENTIVES

Prepared by:
Michigan Interagency Task Force on Disability
December 1985

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WORK: THE REAL SOCIAL SECURITY

SOCIAL SECURITY INCOME WORK INCENTIVES AND DISINCENTIVES

Executive Summary

For persons with ongoing disabilities, "disabled" does not necessarily mean unable to work. Although some persons who have handicaps do have continuing, lifetime severe impairments, many of these persons want to work, and are able to carry out some paid work if they have the necessary assistance and support services.

Despite Congressional action in both the 1980 and 1984 Disability Amendments, the Social Security Act and its implementation continue to impose disincentives to work for persons with severe, continuing disabilities. When changes in the workplace or a fluctuation in the worker's condition cause the earnings of a person dependent on Supplemental Security Income (SSI) to vary, the individual's eligibility for subsistence income and needed support services is jeopardized. Generally, able-bodied workers do not risk their homes, their financial security and their eligibility for support services when they work or seek to increase their productivity and income. Citizens with disabilities, dependent on SSI, often do.

This paper describes some of the areas of risk to individuals with ongoing disabilities who try to work, and it proposes some remedies. The paper is organized into two sections. The first describes the SSI work incentive provisions, with special attention to the work incentive provisions of the 1980 amendments as they affect individuals with developmental disabilities and mental impairments. The second section outlines five major problems in the SSI program that acutely affect persons who have severe continuing, and often fluctuating, disabilities who are working. Each problem description in this section concludes with recommendations for action at the federal and state levels.

To provide an overview for the reader, the problem summaries and the recommendations are reproduced below, referencing the pages of the report which contain the pertinent discussion.

Problem 1: Earnings of SSI recipients who work while they have a medically determinable impairment are often intermittent and fluctuating (pages 12-14).

Recommendation:

1. Congress should extend the duration of the Extended Period of Eligibility (EPE) in the SSI program for those severely disabled persons who have had insignificant work histories before their determination of eligibility. The

EPE should be made indefinite, so that severely disabled persons who are working despite their impairments can be automatically reinstated the month after their income drops below the SGA level.

Problem 2: The dollar amount of $300 per month for Substantial Gainful Activity (SGA) is unrealistically low (pages 14-17).

Recommendation:

2. The Social Security Administration (SSA) should revise the amount of monthly earnings which is considered evidence of SGA, to reflect more equitably an SSI recipient's ability to earn at a level of self-sufficiency. The SGA level for the sighted disabled SSI beneficiary should be keyed to the same standard as that of the blind disabled worker, and should be adjusted annually.

Problem 3: Provisions 1619a and 1619b of the Social Security Act, which allow higher earning levels and protect Medicaid benefits during the transition to self-sufficiency, expire June 30, 1987 (pages 17-19).

Recommendations:

3A. Congress should make Sections 1619a and 1619b permanent provisions of the Social Security Act with an amendment to trigger 1619a if the person had been eligible to receive a regular SSI payment or special benefit in any one of the prior 12 months.

3B. The Secretary of Health and Human Services should conduct a study of the impact of the 1619a and 1619b provisions.

Problem 4: The Social Security Act and regulations do not yet recognize important features of the federally initiated supported work program concept (pages 19-21).

Recommendation:

4. The Social Security Administration (SSA), the Office of Special Education and Rehabilitation Service (OSERS) and the Administration on Developmental Disabilities (ADD) should review the SSA policies that affect income which is earned as a result of participation in a supported work program. In the short-run, policy guidance should be developed to clarify that earnings in a supported work program are to be evaluated in the same manner as earnings in a sheltered workshop. If additional clarification is needed, language should be proposed to Congress that establishes a "provider subsidy" that will affect evidence of SGA and not reduce benefit levels.

Problem 5: The work incentive provisions established by Congress in the 1980 Disability Amendments are infrequently used (pages 21-23).

Recommendations:

5A. The Social Security Administration should continue to place a high priority on the use of work incentives, encouraging local district offices to aggressively implement the various provisions. SSA should periodically track indicators and use of the provisions. Such indicators might include the number of denials and terminations for reasons of excess income and excess resources. SSA should continue to work collaboratively with agencies at the federal, state, and local levels providing information about work incentives.

5B. The Michigan Interagency Task Force on Disability (MITF/D) should coordinate ongoing collaborative training and technical assistance activities with the assistance of the Department of Education, the Department of Mental Health, the Department of Social Services, the Department of Labor and the Developmental Disabilities Council. Periodic seminars should be held with SSA staff, community service providers, case services managers, rehabilitation facility staff, advocates, and other involved parties, to assure the availability of appropriate information as regulations change and as staff turnover occurs.

5C. The Social Security Administration, with the input of persons with disabilities, organizations representing them, and relevant professionals, should research the personal attendant care needs of potential workers and other special needs of those potential workers with mental impairments, in order to update and improve guidance to staff on the Impairment-Related Work Expenses.

The Report

Much of our society is based upon the recognition of the intrinsic, personal and financial value of work. Regular employment structures our time and provides opportunities for social interaction. Work contributes to self-esteem and personal financial security for both temporarily able-bodied people and people with disabilities. However, able-bodied workers do not generally risk their homes, their financial security and eligibility for needed support services when they work or seek to increase their productivity and income. Citizens with disabilities, dependent on Supplemental Security Income (SSI), often do.

The federal Supplemental Security Income program (SSI) was enacted in 1972 as Title XVI of the Social Security Act (42 USC 1381-1383c) to provide a national guaranteed income floor for Americans who, because of advanced age, blindness, or disabilities, are unable to work and be self-supporting. This landmark program provides minimal federal benefit levels which may be supplemented by optional state-funded programs, social services and medical assistance. SSI has always been intended to provide minimal subsistence. Benefits have ranged from 68 to 86 percent of poverty level and from 40 to 56 percent of full-time minimum wage earnings.[1] (See Graph 3, page 15) Effective January, 1985, the federal payments are $325 per month for an individual and $488 for a couple.[2]

Passage of the SSI legislation did assure provision of essential financial support as well as eligibility for needed services for some citizens with disabilities who are unable to work. Limited incentives were included in the 1972 legislation to encourage recipients to return to work. Since its enactment, however, there has been growing recognition that many persons with ongoing handicaps can work and be productive, and be at least partially self-supporting, if necessary services such as housing, habilitation, attendant care and health care can be maintained.

Members of Congress recognized the need for a longer period of ongoing support and protection of eligibility when they passed the Social Security Disability Amendments of 1980, P.L. 96-265, which created additional work incentive provisions in the Social Security Act. These work incentives were designed to help people with continuing and sometimes fluctuating disabilities enter the workplace, by protecting their entitlement to cash benefits and Medicaid protection until they could be reasonably expected to become self-supporting.

Although the work incentive provisions exist in statute, they are complex and often are neither understood nor used by entitled recipients, caseworkers, Social Security Administration (SSA) staff or other professionals. Both the complexities of the legislation and changing federal priorities have interfered with the full application of work incentive provisions. For example, SSA embarked on a major effort to implement the periodic review portion of the 1980 amendments. However, the work incentive provisions also contained in the 1980 amendments, remained largely unnoticed and seldom used. The experience of what appeared to be arbitrary benefit terminations and the failure of promised protections have led to caution in advising persons with disabilities to risk their income security by working. SSI recipients, their advocates and many service providers are suspicious and reluctant to insist on the use of the work incentives, especially because some critical provisions are time-limited.

The purpose of this paper is to explain how the federal SSI program can be improved to better help citizens with ongoing disabilities to find the most rewarding work situation possible. The Social Security Disability Insurance (SSDI) program is also an important income source for a number of disabled persons, especially those who become disabled after a number of years in the work force. Some persons with disabilities are concurrent recipients of SSI and SSDI and the interaction of the two programs must be kept in mind as changes are made. The focus of this paper, however, is SSI.

The paper is organized into two sections. The first describes the SSI work incentive provisions, with special attention to the work incentive provisions of the 1980 amendments as they affect individuals with developmental disabilities and mental impairments. The second section outlines five major problems in the SSI program that acutely affect persons with continuing and episodic disabilities who are working. Each problem description in this section concludes with recommendations for action at the federal and state levels.

SECTION I: WHAT ARE THE WORK INCENTIVES IN THE SSI PROGRAM?

To understand the application of the work incentive provisions, it is necessary to understand how a person becomes eligible for SSI, including the concept of Substantial Gainful Activity (SGA), which is a critical feature of eligibility for an SSI recipient with a disability other than blindness.

A person is eligible to receive federal SSI benefits when three conditions exist:

a. The person is poor, with little or no income and resources; [42 USC 1382 (a)(b)] and

b. The person has a documented impairment which is so severe that it prevents the person (considering age, education and work experience) from performing any work existing in the national economy (regardless of whether such work exists in his or her immediate area); [42 USC 1382c (a)(3)(B)] and

c. The person cannot work or is earning less than the level of Substantial Gainful Activity (SGA). [42 USC 1382c(a)(3)(D)] SGA is defined as work activity that is both substantial and gainful. It involves performing significant physical or mental activities for pay or profit. [20 CFR 416.972-416.975.]

An SSI recipient may lose eligibility in either of two ways. First, the Disability Determination Service (DDS) (a state agency under contract with SSA) determines the person is no longer "disabled" because he or she has medically improved or recovered. Second, an SSA District Office establishes that eligibility has ended either because a beneficiary is engaging in SGA or because a recipient's earnings, income or resources, after allowable exclusions are calculated, exceed the limits set by the statute. This paper will focus on policies pertaining to earnings.

In effect, SGA is evaluated in terms of the monthly earnings of the worker. Monthly earnings (after allowable deductions) less than $190 are not considered substantial earnings. Monthly earnings of $300 or more (after allowable deductions) are always considered both substantial and gainful, i.e., as demonstrated evidence of the ability to work, for any non-blind disabled SSI recipient.

However, within the monthly earnings range of $190-$300, the dollar figure alone does not determine SGA. Monthly earnings between $190-$300 are evaluated for SGA unless they are earned in a sheltered workshop or comparable facility. [20 CFR 416.974(b)(4)] Work activity used as evidence for SGA must be substantial (involving significant physical or mental activities) and gainful (involving pay or profit, whether or not a profit is realized).[3] The amount of pay, the nature of the work duties, the hours worked, the productivity and other factors all contribute to the determination of a person's ability to engage in SGA.

Evidence of SGA usually results in loss of eligibility, and hence loss of SSI benefits, unless other provisions of law are applied. Once eligibility is lost because of the evidence of SGA, eligibility for SSI cannot be re-established without submission of a new application and current medical evidence. Current evidence that a person is engaging in SGA renders an applicant not eligible for SSI regardless of the severity of impairment.[4]

The law and regulations do allow certain deductions to be applied to the person's earnings, thereby reducing the evidence of SGA. The provisions that reduce SGA, as well as other incentive provisions, are discussed in the following nine sections.

1. GENERAL AND WORK EXCLUSIONS [42 USC 1382a(b)]

Since its beginning, the SSI program has permitted the exclusion of certain categories of income from the amount used to determine eligibility or to calculate the amount of SSI benefits received each month. All SSI disability program recipients who work and who are eligible to receive a cash payment are allowed two income exclusions: a $20 per month general income exclusion and a $65 per month work income exclusion. After these exclusions, one-half of the balance of the worker's earned income is deducted from the SSI monthly payment.[5]

2. TRIAL WORK PERIOD [42 USC 1382c(a)(4); 20 CFR 416.992]

The Trial Work Period (TWP) is designed to allow a worker with disabilities to test his or her ability to work for up to nine months during a period of disability without losing eligibility for disability benefits. No determination of a worker's ability to perform SGA is made until after the TWP is completed.[6] The worker can thus try out a job situation without the fear that eligibility for disability benefits will be immediately affected, even though earnings may be high enough to reduce or eliminate benefit payments for some of the TWP months.

However, the nine months need not be consecutive. Any month in which the worker earns $75 or more (or works 15 hours or more if a self-employed worker) is counted as one of the nine months of the TWP. Thus, each work attempt, even if unsuccessful, can result in a loss of up to one month of the trial work period. There is only one TWP during any period of "disability."

3. EXTENDED PERIOD OF ELIGIBILITY [42 USC 1382c(a)(3)(F); 20 CFR 416.992a]

The Extended Period of Eligibility (EPE), established by Congress in the 1980 amendments, begins the month after the last month of a TWP and requires that the individual continues to have a disabling condition. SSI benefits are suspended but may be reinstated in any month during the next 15 consecutive months in which earnings fall below SGA, without having to make a new application for benefits. EPE eliminates the need for another disability determination and the resulting processing time of three months or more.

Since the EPE is tied to the trial work period, it, too, can be used only once for any one period of disability. Once EPE is exhausted, the individual must reapply and undergo a new disability determination if SSI benefits are needed.

4. PLANS FOR ACHIEVING SELF-SUPPORT [42 USC 1382a(b)(4)A and B, 1382 b(a)(4); 20 CFR 416.1181]

A Plan for Achieving Self-Support (PASS), which has been available since 1972, allows a disabled or blind person to set aside income or other resources for use in achieving a work goal, such as education, vocational training or the start-up of a new business. The income which is set aside is excluded from consideration for the SSI income and resources eligibility tests. The PASS provides a way to reduce countable income and resources so that a person participating in training, habilitation and related services will not lose SSI eligibility due to excess income or resources. Any disabled person receiving or applying for SSI benefits is eligible for a PASS, but the PASS is most useful for people in school, in a training or rehabilitation program, or those who are marginally employed or seeking a job.

A PASS can be initiated at any time. The plan must be in writing, and must be reviewed and approved by the Social Security District Office. The recipient is required to have a realistic work goal and a specific saving/spending plan and be able to show how the money which is set aside will be kept separate. A PASS is initially set up for an 18-month period, but can be extended for up to 48 months for an appropriate training or education program.

5. EMPLOYER WAGE SUBSIDY [20 CFR 416.974(a)(2)]

The employer wage subsidy is the dollar value of an employer's contribution to the employee's earnings. It includes evidence of assistance, need for extra supervision, and documentation of the worth and productivity of an individual's work compared to that of other employees. If the value of the services the disabled worker performs falls below the dollar amount the employer pays to the worker, the employer may submit a statement to SSA of the actual value of the worker's services. This subsidy is considered unearned income and is to be deducted from earnings when an evaluation for evidence of SGA is undertaken by SSA. The disabled worker who actually brings home more than $300 a month may have "countable income" (income used to determine eligibility for SSI benefits) that is less than the $300 SGA threshold for eligibility, due to use of the employer wage subsidy provision. However, the "unearned income" documented as the employer subsidy will not be subject to the work exclusions and the two-for-one dollar disregards. Thus, a portion of the amount of the subsidy would be deducted from the recipient's benefit check.

6. IMPAIRMENT-RELATED WORK EXPENSES [42 USC 1382c(a)(3)(D); 20 CFR 416.976]

In 1980, Congress added the Impairment-Related Work Expenses (IRWE) provision to the Social Security Act. This allows the cost of certain impairment-related items and services which are necessary for the person to work to be deducted from earnings in determining SGA and from the earned income amount, which is used in determining monthly SSI benefits. However, the worker must be eligible to receive SSI benefits without an IRWE deduction for his or her first entitlement. The disabled worker, not another person or agency, must pay for the costs of items and services for an IRWE. The items and services must be directly related to helping a disabled person to work, and costs must be incurred because of a person's severe physical or mental impairments.

Deductible expenses may include the following: medical devices such as wheelchairs, respirators and braces; attendant care services such as assistance in getting ready to go to work, going to and from work, and at work; transportation costs such as modifications to a car; work-related equipment such as modified typewriters, telecommunication devices for the deaf and special work tools; drugs and medical services such as regularly prescribed medical treatment or therapy needed to control an impairment; and residential modifications that are directly related to work. SSA must approve each deduction and the amount in each individual case, following promulgated regulations.

7. 1619a - SPECIAL CASH BENEFITS [42 USC 1382h(a); 20 CFR 416.261-416.265]

The 1619a provision, Special Cash Benefits for disabled (SSI) recipients, was established in the 1980 Amendments as a demonstration project to motivate potential workers to find successful work situations. This provision allows a disabled SSI recipient whose earnings reach SGA level to continue eligibility for reduced cash benefits if he or she still meets all of the other eligibility criteria for the program and was eligible to receive a regular or special SSI benefit payment the previous month. Special SSI benefits may be paid during the Extended Period of Eligibility and beyond as long as other eligibility criteria are met. The specific benefit level is calculated in the standard manner.[7] The effect of this provision is to allow the worker with disabilities to continue to be eligible even if he or she is performing SGA, provided earnings do not exceed the combined state and federal benefit level.[8] The 1619(a) provision expires June 30, 1987.

8. 1619b - EXTENDED MEDICAID COVERAGE [42 USC 1382h(b)]

Under the 1619b provision, which was also a part of the 1980 amendments, a person with income that reduces the SSI benefit to zero can retain Medicaid eligibility. The following criteria must be met:

a. The worker must be blind or severely impaired.

b. The worker must have been eligible to receive a regular or special SSI benefit in the month before the first month of Extended Medicaid Coverage Eligibility.

c. The worker must need the health care services provided by Medicaid in order to work, as evidenced by use or anticipated use.

d. The worker must be unable to afford medical care without assistance, as determined by a state-specific "earnings threshold."[9]

No additional application is needed to secure this extension of Medicaid coverage; processing will occur automatically if the person lives in a state which determines eligibility for Medicaid by the SSI standard.[10] The 1619(b) provision expires June 30, 1987.

As part of the 1984 Disability Amendments, Congress required the Secretary of Health and Human Services and the Secretary of Education jointly to develop and disseminate information about the 1619a and 1619b provisions [42 USC 1382h(c)].

9. BENEFIT CONTINUATION UNDER A REHABILITATION PLAN [42 USC 1383(a)(6)]

The Social Security Amendments of 1980 authorized continued payment of benefits to individuals participating in an approved Vocational Rehabilitation Plan. This provision allows the continuation of SSI benefits after a person's disability ceases, if the following conditions are met:

a. The disabled individual was not expected to recover medically during the rehabilitation process.

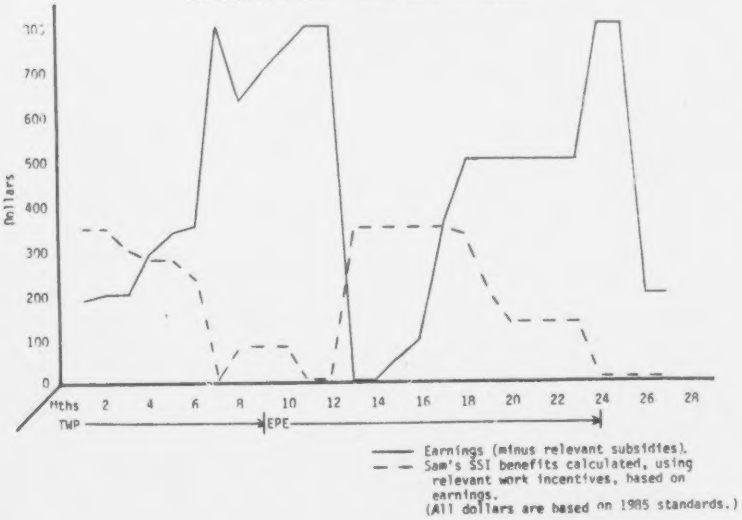
b. The person is participating in the State Vocational Rehabilitation program.

c. The person's participation in the State Vocational Rehabilitation program will increase his or her chances of being permanently removed from the disability rolls.

DISCUSSION OF THE EFFECTS OF THE WORK INCENTIVES

To provide a visual example of the effects of the work incentives, two graphs have been prepared. Graphs 1 and 2 illustrate the situation of a fictional Sam, who goes to work. Sam is disabled and has been receiving SSI since January 1982. He has no other income and he lives alone in an apartment. He tries a job working for a local delivery service. Graph 1 shows the operations of the TWP and the EPE. Sam's earnings and related adjustments to his SSI checks are shown. During the TWP, which was nine consecutive months in this case, some earnings exceeded SGA (and the "breakeven"[11] point of $788.40). However, Sam is not rendered ineligible because of SGA, since this occurred during the TWP. The graph also demonstrates the effect of EPE. Sam earns $800 in month 12, but when his earnings drop below SGA, he is immediately eligible for an SSI check in month 13. In months 17 to 23, special cash benefits (1619a) are paid, even though Sam's earnings are above SGA. He is eligible for Medicaid throughout the 26 months pictured because of the provisions of 1619b, even in those months (7, 11, 12, 24, 25 and 26) in which he receives no SSI check. The situation after month 25 will be discussed in Section II of this paper.

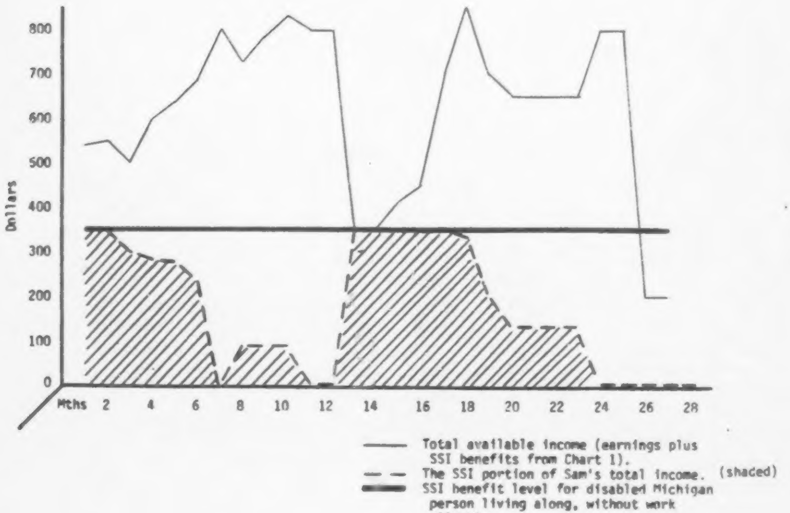
GRAPH 1: SAM GOES TO WORK
The Benefit of the TWP & EPE on Re-Entitlement



Graph 2 shows the combined effects of Sam's earnings and his SSI benefits as displayed in Graph 1. The shaded portion displays the amount of reduced SSI benefits Sam receives. Because of the calculation cycles, there are peaks in income that fall two months after the month in which the high income was earned. Sam's economic incentive to work is evident when one compares the amount of his income with what would have been his regular SSI benefit level of $351, had he not tried to work. In this 27 month example, Sam's available income is above minimum wage for 18 months and below minimum wage for nine months.

On the other hand, the difference between the actual SSI benefits which he received and benefits to which he would have been entitled if he were not working, plus the amount he paid in taxes, add up to a real savings to the Treasury. Sam has become a taxpayer, and he is somewhat less dependent on SSI. In this 27 month example, he receives less than the $371 possible benefits for each of 20 months and receives a regular benefit check for seven months.

GRAPH 2: SAM GOES TO WORK
The Financial Incentives



(All dollars are based on 1985 standards.)

SECTION II: WHAT ARE THE PROBLEMS IN SSI THAT AFFECT PERSONS WORKING DESPITE PHYSICAL OR MENTAL DISABILITIES?

Of the total SSI population, 3.2 percent have countable earned income.[12] While this is a small proportion of the total recipients, it is important to remove barriers to their becoming as productive as they are able. In this portion of the paper, five major problems in the SSI program that affect these citizens and others with disabilities who wish to work will be outlined, and recommendations will be made for action at the federal and state levels.

Four of these problems pertain fundamentally to eligibility for SSI:

1. Earnings of SSI recipients who work while they have a medically determinable impairment are often intermittent and fluctuating.

2. The dollar amount for SGA is unrealistically low.

3. Sections 1619a and 1619b of the Social Security Act expire June 30, 1987.

4. The Social Security Act and regulations do not yet recognize important features of the federally initiated supported work program concept.

The fifth problem is the infrequency with which the work incentive provisions established by Congress in the 1980 amendments are used.

Problem 1: Earnings of SSI recipients who work while they have a medically determinable impairment are often intermittent and fluctuating.

In real life, "disabled" does not always mean unable to work. Barriers for persons with continuing, lifelong disabilities who work can be modified. Some disabled SSI recipients do have jobs. Many others wish to work and to reduce to any extent possible their dependence on SSI and accompanying support programs. A worker with a developmental disability or a mental impairment, with little or no work experience, may need to make many work attempts over a lifetime. Because of their training and support needs, adaptations needed in the work place, the limited number of suitable jobs and employers, and the cyclical, fluctuating levels of their impairments, workers with severe handicaps may make many repeated work attempts over a lifetime. Earnings during these work attempts will vary. A work attempt of only a few days length, even if paying over $75, is not an accurate indicator of a person's ability to find, undertake and maintain ongoing employment. Nor does a period of work in which a person is earning above $300 (SGA) demonstrate that the worker is no longer disabled.

Many persons with physical and mental impairments experience variations in their conditions which may contribute to fluctuations in their income. For example, some types of mental illness become acute periodically but allow a worker many productive months between acute episodes. Other persons with continuing disabilities may have episodes requiring intensive medical treatment for other physical or mental conditions. They may be absent from work and suffer loss of earnings. After the episode ends, their basic disability continues. They need the protection of an indefinite re-entitlement feature that is available beyond the current 24-month period, such as that available to persons with blindness.

To observe the impact of fluctuating earned income, let us return to the example of Sam (see Graphs 1 and 2, pages 10 and 11). Sam's job is in the service sector of the economy. For the purpose of this example, let us assume that the fluctuations in his wages are due to variation in the hours of work available for him. Sam's disability, while severe, is not classified as permanent by DDS. However, it is not changing. For the 15 months of the EPE Sam's eligibility continues so that his benefit is promptly reinstated when his income fluctuates (months 13 through 16).

When his income drops in month 26, Sam must file a new application for SSI since the 24-month period (the combined TWP and EPE) during which his eligibility status is protected has expired. The new application requires another determination of medical eligibility by DDS. If the drop in his income in months 26 and 27 is related to deterioration of his medical condition, or if his condition were classified by SSA as permanent, he would be determined eligible for SSI after the usual processing time of approximately three months. However, if the drop in his income in months 26 and 27 is related to a fluctuation in his employer's business, the experience has been that a medical redetermination may find that Sam's demonstrated work history is evidence that he has medically "recovered," and he would be determined no longer eligible for SSI. In the meantime, even if Sam or others in similar situations are eventually found eligible for SSI, they will likely fall in arrears on rent and heat or be forced out of adult foster care placements. Equally as critical for persons with developmental disabilities or mental illness, they may not have been able to receive medications which are essential to their treatment such as psychotropic or seizure medications.

Although the EPE provision does allow for a larger number of work attempts, it still does not provide adequate protection over time for the individual worker with a developmental disability or a mental impairment who may not be able to engage in consistent long-term employment. The person's work history may be an ongoing series of work attempts over a lifetime, rather than the 24 months (with the combination of the TWP and the EPE) for which an individual's entitlement is currently protected.

In conclusion, the problem of intermittent and fluctuating wages for persons with physical and mental impairments who work extends beyond the personal financial management problem faced by other workers with low wages, part-time jobs, or jobs characterized by frequent lay-offs. The problem for workers with life-long continuing disabilities is that their medical benefits, necessary social supports, and often their living situations are tied to their SSI eligibility. Therefore, federal policy should encourage and support those persons with disabilities who wish to work, even part-time, by not endangering their SSI eligibility.

RECOMMENDATION:

1. Congress should extend the duration of the Extended Period of Eligibility in the SSI program for severely disabled persons who have had insignificant work histories before their determination of eligibility. The EPE should be made indefinite, so that severely disabled persons who are working despite their impairments can be automatically reinstated the month after their income drops below the SGA level.

It is reasonable to expect that if the EPE were of indefinite duration, so that re-entitlement would be automatic for certain disabled SSI recipients, then other work incentive provisions would be used more assertively.

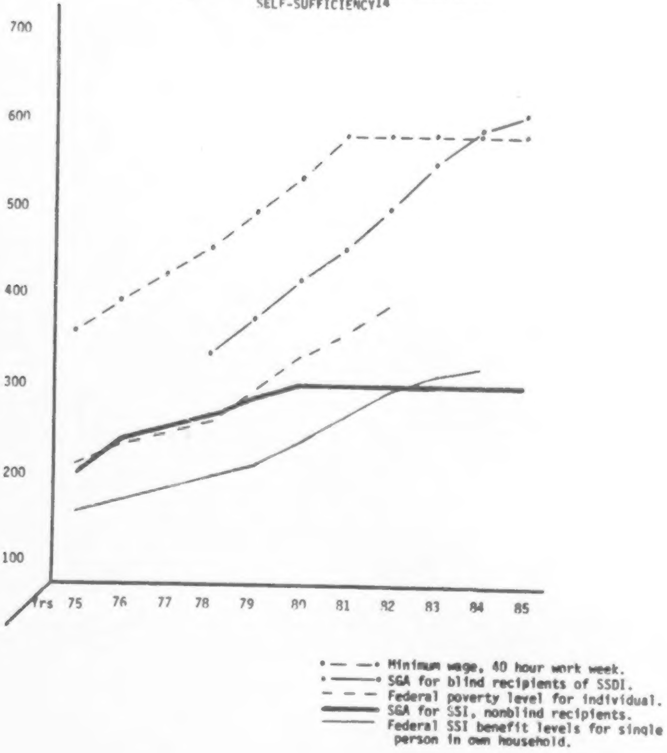
If EPE were not made permanent, then changes in the TWP would be recommended. For example, the TWP should be made nine consecutive months and the earnings level of $75 should be raised to the minimum level counted as evidence of SGA. These changes would make this work incentive in the SSI program more realistic for persons with disabilities who have little or no work history. However, the more fundamental problem caused by intermittent and fluctuating wages is best addressed by making the EPE of indefinite duration.

Problem 2: The dollar amount for SGA is unrealistically low.

The monthly earnings figure which establishes SGA was originally intended to reflect monthly earnings at a level consistent with national earning levels and related to self-sufficiency.[13] Congress gave SSA the authority to modify SGA. For the first eight years of the SSI program, SGA was higher than the federal benefit level for an individual. From 1975 to 1979, SGA and the official poverty level were nearly equivalent. However in 1980, SGA was set at $300 and has not been increased since. Compared to any test of self-sufficiency, such as minimum wage or other standards that are related to the Consumer Price Index, the current level of SGA is unrealistically low. Since the concept of SGA is central to the consideration of eligibility for SSI, its dollar equivalence must be addressed.

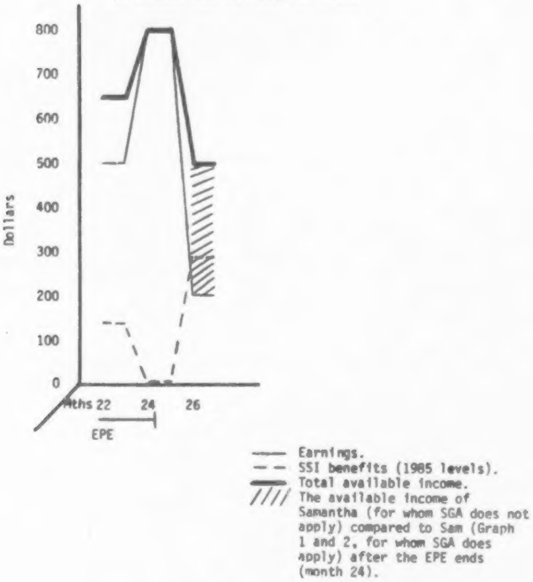
To illustrate the discrepancies Graph 3 displays five income indicators for the period of 1975 to 1985. In addition to those indicators mentioned above, the graph also plots the more realistic and humane level of SGA which is used for blind SSDI recipients, for whom annual adjustments of SGA have been made reflecting changes in the amounts needed for self-sufficiency.

GRAPH 3: SGA FOR SSI NON-BLIND RECIPIENTS, COMPARED WITH FOUR OTHER STANDARDS RELATED TO SELF-SUFFICIENCY[14]



To demonstrate the impact of SGA on benefit levels after the EPE has ended, refer to Graph 4. This graph illustrates the situation of another fictitious person, Samantha, who is blind. The example has been constructed using the same gross earnings as Sam's in graphs 1 and 2, pages 10 and 11. Her SSI levels are the same as Sam's for months 1 through 25. The key difference is what happens in months 26 and 27. For Sam, whose EPE has expired and whose disability is considered severe but not permanent, his only income is his $200 earnings. Samantha, on the other hand, in both months 26 and 27, receives her earnings plus SSI of $294.20. This difference is because there is no SGA for blind SSI recipients. Essentially, eligibility is assured for persons who are blind and for those who are judged to have no possibility of recovery (classified as "permanently disabled" by DDS), as long as they meet the other income and resources tests. Their benefits are calculated in the standard manner.

GRAPH 4: SAMANTHA, WHOSE DISABILITY IS BLINDNESS, GOES TO WORK
The Affect When SGA Does Not Apply



RECOMMENDATION:

2. The Social Security Administration should revise the amount of monthly earnings considered evidence of SGA, to reflect more equitably an SSI recipient's ability to earn at a level of self-sufficiency. The SGA level for the sighted disabled SSI beneficiary should be keyed to the same standard as that of the blind disabled worker, and should be adjusted annually.[15]

Raising SGA is within the scope of responsibility of the SSA. By raising SGA, administrative time could be reduced since the involved process of evaluating for SGA would not need to occur on as many cases. To insure equity, both blind and nonblind disabled recipients should be treated the same. Additionally, raising the dollar amount of SGA would result in its becoming a more meaningful test of self-sufficiency.

Problem 3: SSI Provisions 1619a (special cash benefits) and 1619b (extended Medicaid coverage) expire June 30, 1987.

Nationally, by August 1984, only 406 SSI recipients had been allowed 1619a benefit protection. Michigan's participation in the 1619a program is shown in Table 1.[16]

TABLE 1
1619a ALLOWANCE IN MICHIGAN (selected months)

Month	Number Allowed	Average Earnings	Federal Payment
12/82	4	$321	$115
12/83	8	$450	$125
08/84	3	$139	$188

Also in August 1984, only 6804 people nationally were eligible for Medicaid based on section 1619b protections. The figures for Michigan are shown in Table 2.[17]

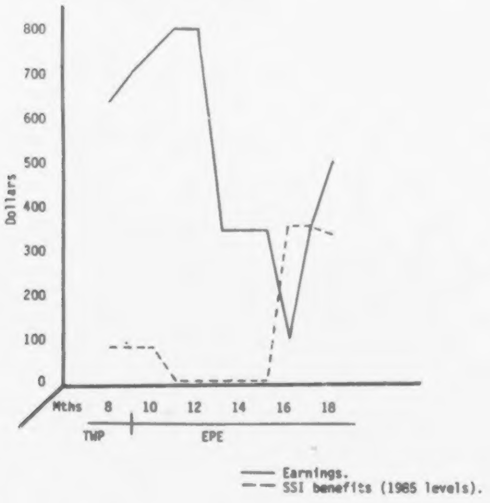
TABLE 2
MEDICAID CONTINUATION AFTER TERMINATION OF CASH BENEFITS (1619b)
(selected months)

Month	Number Allowed	Average Monthly Earnings
12/82	150	$660
12/83	151	$676
08/84	213	$703

SSA officials believe that the actual utilization of 1619a is higher than their reports indicated, although the reasons for the possible discrepancy are unclear. The process of changing cases from 1611 status to 1619a is an automated function based on input from claims representatives, and according to SSA officials, has been automated since June, 1981. Nevertheless, advocates, knowledgeable parents and service providers remain cautious about encouraging persons with disabilities to work while 1619a and 1619b remain temporary measures. Currently, there is support in the Administration on Developmental Disabilities (ADD) and elsewhere to make 1619a and 1619b permanent. H.R. 2030 and S. 1745 have been introduced, both of which include provisions to make 1619a and 1619b permanent. Knowledgeable persons are optimistic about passage of such an amendment if advocates inform their Congresspersons of the importance of the provisions, and of the harm which will ensue to persons with severe disabilities if the provisions are allowed to expire June 30, 1987.

When an SSI recipient is working and wishes to assure continuing protection under 1619a, earnings and the number of hours worked must be monitored closely. Eligibility status is protected by Section 1619a if the person was eligible to receive a regular SSI payment or special benefit in the prior month. Therefore, Sam, (Graph 1, page 10) who was still in his EPE in month 13 when his income dropped to zero, could be automatically re-entitled to benefits because he was still in the EPE. However, had his income dropped, but to a level which still exceeded SGA, he would not have been eligible for 1619a protections. This situation is shown in Graph 5 for a fictitious Sally who goes to work. Her monthly earnings are similar to Sam's except in months 13, 14, and 15, where her earnings are just above SGA, illustrating a limitation in Section 1619a. Although her earnings are just above SGA, they are below the amount of the benefit level to which she is entitled based on her living arrangement. Therefore, by going to work, she would experience a net decrease in her total income in the situation described. Once her earnings drop below SGA (as long as this occurs within the EPE), she will be eligible for the special benefits under section 1619a. For Sally, this occurs in month 16. Therefore, she receives SSI special cash benefits in months 17-23.

GRAPH 5: SALLY GOES TO WORK
A Problem in 1619a Because SGA is
Lower Than Benefit Levels



This problem in 1619a eligibility is caused by the discrepancy between benefit levels and SGA levels. The discrepancy is compounded for persons in states that provide a supplement to the SSI payment levels to account for various living situations or to adjust for regional differences in costs of living. When a person's earnings exceed the "breakpoint"[18] in one month, he/she is not eligible for 1619a protections until the earnings drop below SGA.

Since the intent of Congress is to provide true incentives for SSI recipients who are disabled, it is recommended that 1619a be amended to correct this limitation. If such an amendment is not made, then disabled workers, their advocates and service providers will be required to monitor countable income levels even more closely and to adjust the person's hours of work when earnings near the "breakpoint." Such manipulations are counter-productive to the purpose of working and serve to discourage working to full potential.

RECOMMENDATIONS:

3A. Congress should make Sections 1619a and 1619b permanent provisions of the Social Security Act with an amendment to trigger 1619a if the person had been eligible to receive a regular SSI payment or special benefit in any one of the prior 12 months.

3B. The Secretary of Health and Human Services should conduct a study of the impact of the 1619a and 1619b provisions.

Problem 4: The Social Security Act and regulations do not yet recognize important features of the federally initiated supported work program concept.

Progressive programs and research activities are demonstrating that persons with severe handicaps can work and earn in community work places, with extra help, alongside nonhandicapped workers. The Office of Special Education and Rehabilitation Services (OSERS) and the Assistant Secretary, Madeline Will, the Commissioner on Developmental Disabilities, Jean K. Elder, along with other leaders, have challenged the rehabilitation and disability fields with employment initiatives designed to assist states to shift from traditional day activity programs to real work alternatives and to promote successful transitions from school to work and adult life for persons with disabilities.[19]

Eleven states, including Michigan, have received OSERS Supported Employment grants and will be encouraging the development of non-traditional models of supported work for persons who have severe disabilities and may have been participants in day activity programs. Examples of supported work models include: a small team of disabled persons in a manufacturing plant, whose supervisor is paid by the agency responsible for on-going services; dispersed individual placements in the community with publicly-funded support staff rotating among the sites; a mobile crew with publicly funded supervisor/support staff. Average monthly wages in demonstration projects range from $100 to over $300.

As a result of these initiatives, more individuals will be working despite their mental and physical impairments. They will be working in community workplaces, with special support and supervision, alongside nonhandicapped co-workers. Fewer persons will be working in traditional sheltered work programs. SSA regulations recognize a sheltered workshop as a "facility especially set up for impaired persons." In these settings earnings between $190 and $300 are not to be evaluated for SGA [20 CFR 215.974(b)(4)]. However, if supported work program earnings in the $190 to $300 range are evaluated for SGA just because the person's workplace is in a competitive setting, the worker faces a dilemma. His or her income is not adequate for self-sufficiency, but SSI benefits may be terminated due to a judgment, at the time of Continuing Disability Review (CDR), that participation in such a program indicates SGA or "medical improvement." Understandably, family members and counselors are hesitant to encourage a worker's participation in supported private sector employment opportunities, fearing that benefits may be terminated short of any prospect of true self-sufficiency.

A case history from a Detroit service provider in May 1984, illustrates the concerns:

> Joan is 25, has cerebral palsy and an I.Q. of 60. If she works in a sheltered workshop earning under $300 a month, we won't have any problem with the SSI. Our Board just started an exciting shared time work program in [a local manufacturing plant] to test future work possibilities, but her parents have told her not to participate because she will look like she is in competitive employment. The job is not in a strictly sheltered setting. It took over a year for her to become eligible for SSI and her earnings will threaten her chances to remain eligible.

The reader can ask why those involved weren't aware of the 1619a provision which deals with the overarching concern of loss of eligibility. However, the substance of the concern about location of the paid work will continue to be an issue for evaluations of SGA and for disability determinations in the CDR process, until satisfactorily clarified in SSA policy and guidance to staff.

As discussed above, there are some current work incentives that provide a means to reduce gross earnings before evaluating for SGA. The Employer Subsidy provides a means to adjust for employer-provided supports. IRWE provides the means to adjust for the disability, work-related expenses paid by the worker. However, in some models of supported work, the employer of record is a private company, and support is being provided by placing agency staff. In these circumstances, the person's earnings are not being subsidized. His earnings reflect his labor. However, without on-going support, job coaching, etc., provided by the placing agency, the person would not be able to continue working. Therefore, it will be necessary to develop a "Provider Subsidy" concept that will reduce evidence of earnings when evaluating for SGA.

The proposed subsidy should be neither earned nor unearned income, since it represents the activity necessary to support the person with a continuing disability in the work site. Therefore, while it should reduce evidence of

SGA, it must not be applied in benefit computation to reduce benefit levels. This proposed provision would reduce the risk of loss of SSI eligibility for a person who is severely disabled, earning significant substantial wages and receiving necessary assistance through a supported work program. Without such a modification in policy interpretations, there will be less financial incentive for workers and service providers to seek out such work options, and for professionals to encourage innovative partnerships with the private sector.

RECOMMENDATION:

4. SSA, OSERS and ADD should review the SSA policies that affect income earned as a result of participation in a supported work program. In the short-run, policy guidance should be developed to clarify that earnings in a supported work program are to be evaluated in the same manner as earnings in a sheltered workshop. If additional clarification is needed, language should be proposed to Congress that establishes a "provider subsidy" that will affect evidence of SGA and not reduce benefit levels.

Problem 5: The work incentive provisions established by Congress in the 1980 Disability Amendments are infrequently used.

In the 1980 Disability Amendments, Congress enacted most of the work incentives which are designed to overcome barriers to paid employment for persons with on-going severe disabilities (often those arising in childhood). Those provisions and others have been discussed in Section I above. The Michigan experience leads us to conclude that these work incentive provisions are not widely recognized and are seldom used. The concept for this paper was developed in late 1984. Members of the Michigan Interagency Task Force on Disability (MITF/D) began to discover the extent to which SSA personnel in various parts of the state and regional offices differed in their awareness and understanding of the work incentive features of the Social Security Act. We continued to learn of significant problems faced by persons with disabilities who want to work, their advocates, and services providers attempting to offer opportunities for more challenging work. Numerous examples of client problems which were reported were rooted in lack of knowledge and use of one or more of the available work incentives by SSA staff as well as recipients.

To address these issues, MITF/D launched a collaborative training activity, co-sponsored by nine organizations. During the period of June to October, 1985, five seminars were held and about 550 persons were trained by a team consisting of SSA personnel, service delivery experts, and advocates. The goal of these seminars was to teach professionals who work with persons who are developmentally disabled and mentally impaired about the work incentive provisions in the Social Security Act, so that they could help their clients to fully use these provisions.

SSA staff were positive about the seminars. It appears they benefited from participation and visibility, since common ground for dialogue was established and continues to increase in some communities. Community and rehabilitation agency and service delivery staff were similarly positive. Connections among these organizations and advocates were strengthened or, in some instances, created. It is anticipated that use of the work incentive provisions will increase in Michigan because of the focus on work for individuals with severe disabilities and because of this collaborative training and the resulting dialogue.

Because of staff turnover in community agencies and SSA, and because staff as well as parents, recipients, and advocates need regular refreshers, structured, community-based collaborative training should occur periodically. In addition to the work incentives, certain other provisions which bear on SGA and benefit calculation need to be regularly reviewed to maintain appropriate, fair utilization.

For example, there is an apparent lack of consistency in calculating monthly earnings. Monthly earnings, for SSI purposes, are to be determined based on "retrospective monthly accounting" introduced in the 1981 legislation.[20] For months with five weeks or three pay periods, monthly reporting may unfairly show a high monthly average wage, and eligibility for benefits may cease. SSA officials explain that this problem is not rooted in policy. It is agency policy to calculate the amount earned, regardless of the amount paid during the month. SSA form L-725, sent to employers to report gross wages earned per month, carries this distinction between "earned" and "paid." However, as a practical matter, if an employer inadvertently reports amounts paid and an SSA claims representative does not question a fluctuation that is based on five week or three pay check months, disabled workers may be pushed over SGA or over the "breakeven" point used in determining whether 1619a benefits will be paid. Such technical issues (though critical for affected recipients) can be dealt with in the context of discussions between involved parties. Otherwise, the only remedies are to manipulate the hours of work or to encourage a worker to file an appeal.

In addition to promoting the use of the Congressionally established work incentives, collaborative, community-based training over a number of years will assist in overcoming suspicion caused by past failures in the use of work incentives. Persons with disabilities, their advocates, and many service providers are cautious about encouraging a person with on-going severe disabilities to work, given the risks to SSI eligibility. They have experienced what appeared to be arbitrary terminations when SGA was reached in a five week/three paycheck month, when referrals to DDS have been made for re-determinations during the TWP because of earning levels, and when the supposedly automatic 1619a cash benefit was not initiated for a working SSI recipient and a period of ineligibility ensued.

Family members, case managers, workshop staff, and recipients believe they have been forced to manipulate attendance and hours of work to prevent terminations of SSI. Some workshop staff admit many employees are underutilizing their capabilities. Many of these people with disabilities are involved in time-filling day activities, unrelated to work opportunities. Some families and caregivers are so uncomfortable at the prospect of further loss of any supports for the disabled person that they actively argue against any service plan or work program that may cause scrutiny by SSA. Often the initial process of securing the SSI was so grueling that it is felt "better left alone" than to risk a future dependence on an untested employment source. When comparing the experiences of persons on SSI whose disabilities had early on-set and who have minimal work experience with those of individuals on SSI who are blind, the unfairness is evident. The risk is not as great for SSI recipients who are blind, because this impairment permits re-entitlement any time earnings fall below the current break even level, and SGA is not used to terminate program eligibility. Changes in the statute detailed above, and more aggressive, systematic and consistent use of work incentive provisions, will go a long way to overcome citizens' skepticism about the national income policy regarding persons with disabilities.

RECOMMENDATIONS:

5A. The Social Security Administration should continue to place a high priority on the use of work incentives, encouraging local District Offices to aggressively implement the various provisions. SSA should periodically track indicators and use of the provisions. Such indicators might include the number of denials and terminations for excess income and for excess resources. SSA should continue to work collaboratively with agencies at the federal, state, and local levels providing information about work incentives.

5B. MITF/D should coordinate on-going collaborative training and technical assistance activities with the assistance of the Department of Education, the Department of Labor, the Department of Mental Health, the Department of Social Services and the Developmental Disabilities Council. Periodic seminars should be held with SSA staff, community service providers, case services managers, rehabilitation facility staff, advocates and other involved parties, to assure the availability of appropriate information as regulations change and as staff turnover occurs.

5C. The Social Security Administration, with the input of persons with disabilities, organizations representing them, and relevant professionals, should research the personal attendant care needs of potential workers and other special needs of those potential workers with mental impairments, in order to update and improve guidance to staff on Impairment-Related Work Expenses.

END NOTES

1. Between 1974 and 1982, the federal SSI benefit level for an individual has ranged between 68 and 72 percent of the poverty level For couples it has ranged between 80 and 86 percent of the poverty level during the same time period. Trout, John and Mattson, David R., "A 10-Year Review of the Supplemental Security Income Program," Social Security Bulletin, January 1984. (Vol. 47, No. 1) pages 9, 13-19.

2. Because of Michigan's supplement, individuals living alone receive $351.70; couples receive $528.00. Eligible individuals in licensed adult foster care receive $482.50 (personal care rate), most of which goes to the provider. For details on state optional supplementation programs, see: SSI: Characteristics of State Assistance Programs for SSI Recipients, January, 1985. Office of Supplemental Security Income, Social Security Administration, 1985.

3. The SSA claims worker is to evaluate a person's work whose earnings are between $190 and $300 as substantial and gainful, based on the following Social Security Administration procedures [20 CFR 416.974]:

   a. Test of Comparability: is the employee's work comparable to that of unimpaired individuals in the community who are doing the same or similar occupations as their means of livelihood, taking into account the time, energy, skill and responsibility involved in the work, or

   b. Test of Worth: is the employee's work, although significantly less than that done by unimpaired people, clearly worth more than the amount shown in the Earnings Guidelines (i.e., more than $300 a month) according to pay scales in the community?

4. Social Security Handbook, 1984, Section 618, page 86.

5. The method of calculating benefits is the same for SSI and for special cash benefits (1619a). Fundamentally, the benefits are reduced proportionately until the person is no longer eligible for a regular (1611) or special benefits (1619a) check. The dollar amount at which income (after allowable deductions) precludes an SSI payment is called the "breakeven point." In Michigan, in 1985, the breakeven point for an individual living in his/her own home is $788.40. For a person living at the personal care level in adult foster care, it is $1050.

6. However, if a case has been diaried for a review of disability by the DDS at the time of approval of the application, a case could be terminated during a TWP because the person was judged by DDS to have medically improved.

7. States which pay an optional supplement to SSI also have the option as to whether they will supplement 1619a special benefits. Michigan and at least 16 other states continue their supplements for the 1619a provision.

8. See note 5 supra.

9. In Michigan, the "earnings threshold" for the purpose of 1619b eligibility is $12,910.83.

10. Michigan uses the SSI standard for Medicaid eligibility. However, fourteen states do not use SSI criteria to automatically establish Medicaid eligibility. A few other states do not participate in 1619b. A provision should be developed to encourage (or require) all states to participate in 1619(b).

11. See note 5 *supra*.

12. Trout, John and Mattson, David R., "A 10-Year Review of the Supplemental Security Income Program," *Social Security Bulletin*, January 1984 (Vol. 47, No. 1) page 20. In 1982, the average monthly gross earnings for older SSI recipients was $105, $93 for disabled recipients, and $414 for blind recipients.

13. Social Security Rulings--Disability, SP 00103.002, October 1982.

14. Data as follows:

Monthly Dollar Levels, By Year

	Federal Minimum Wage (172 hrs/ month)	SGA for Blind SSDI Recipients (SSA; DI 00503.100A)	Federal Poverty Level (SS Bull. 1/84, p.9)	SGA for Non-Blind SSI Recipients (SSA, 12/84)**	Federal SSI Benefit, Individual Own Household (amount effec. July 1 of each year)
1975	361		215	200	157
1976	396		228	230	168
1977	N/A		242	240	178
1978	456	334	261	260	189
1979	499	375	290	280	208
1980	533	417	329	300	238
1981	576	459	363	300	265
1982	576	500	386	300	284
1983	576	550	N/A	300	304
1984	576	580	N/A	300	314
1985	576	610	N/A	300	325

**For blind SSDI recipients, SGA is keyed to the "earnings test," a standard used in the SSDI program for older workers who are receiving SS retirement benefits. The "earnings test" is adjusted annually by SSA. POMS, DI 00503.020, December 1984. See also *Social Security Handbook*, 1984, pages 247, 250. Sections 1801 and 1803.

15. *Ibid*.

16. Social Security Administration, *Report to the Congress on P.L. 96-265, the "Social Security Disability Amendments of 1980,"* January 1985, pages 18 and 20.

17. *Ibid*, pages 18 and 24.

18. See note 5 *supra*.

19. "Bridges from School to Working Life," Madeline Will, "Programs for the Handicapped," *Clearinghouse for the Handicapped* March/April 1984, Number 2, pages 1-5.

20. The statute cites *annual* amounts for income limitations, benefit levels, general and work exclusions. However, in April 1982 based on the Omnibus Reconciliation Act of 1981, SSA started retrospective monthly accounting for calculating income and benefit levels. Previously, a prospective method had been used for benefit calculations.